89-132

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CLERK

NO. _____

IN THE SUPREME COURT

OF THE

UNITED STATES OF AMERICA

OCTOBER TERM, 1988

JOHN JOSEPH VACCARO

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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QUESTION PRESENTED

1. Did the District Court err in denying Defendant's motion to suppress wiretap evidence where such wiretaps were improperly authorized because adequate necessity was not shown?

LIST OF ALL PARTIES

PETER JOHN MILANO, CARMEN JOSEPH MILANO, LUIGI GELFUSO, JOHN JOSEPH VACCARO, JOHN PATRICK DEMATTIA, CHARLES JAMES CACI, VINCENT DOMINIC CACI, ROCCO JAMES ZANGARI, STEPHEN ANTHONY CINO, ALBERT JESUS NUNEZ, STEPHEN GEORGE MUNICHIELLO, MICHAEL GELFUSO, ROBERT RALPH D'AGOSTINO, ABRAHAM ANTHONY PRINS, ARTHUR FRANCONERI

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PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

John Joseph Vaccaro, Defendant in the proceeding below, petitions for a writ of certiorari to review the appeal from the United States Court of Appeals for the Ninth Circuit.

OFFICIAL REPORTS BELOW

The memorandum of the decision of the United States Court of Appeals for the Ninth Circuit affirming the Defendant's convictions is attached as Appendix A.

JURISDICTIONAL PROVISIONS

The United States Court of Appeals for the Ninth Circuit affirmed the convictions of the Defendants on April 5, 1989.

Jurisdiction is conferred upon this Court by 28 U.S.C. Section 1254(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to the Constitution of the United States of America provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE CASE

John Joseph Vaccaro was charged in an eighteen-count indictment which alleged attempt to collect an extension of credit by extortionate means, attempt to obstruct justice, attempt to distribute cocaine, distribution of cocaine, and violations of the Racketeer Influenced and Corrupt Organizations Act.

Mr. Vaccaro was charged in the following counts:

Count One [18 U.S.C. Section 1962(d)].

Count Two [18 U.S.C. Section 1962(d) and 2].

Count Five [18 U.S.C. Section 894].

Count Six [18 U.S.C. Section 894].

Count Fourteen [21 U.S.C. Section 841, 18 U.S.C. Section 2].

Count Fifteen [21 U.S.C. Section 841, 18 U.S.C. Section 2].

Count Sixteen [21 U.S.C. Section 841, 18 U.S.C. Section 2].

During the period of November, 1982, through February, 1984, agents of the Federal Bureau of Investigation ("FBI") conducted an investigation of Lawrence and Craig Fiato and others involved in loansharking activities. These individuals were subjects of court-authorized interceptions of oral and wire communications. Court-authorized searches of their persons and residences were executed on July 7, 1983.

On February 21, 1984, and March 8, 1984, respectively, Lawrence and Craig Fiato approached government attorneys to become government witnesses and assist investigative efforts of the Los Angeles Organized Crime and Racketeering Section of the United States Department of Justice.

From March, 1984, through January, 1985, and beyond, Craig and Lawrence Fiato consensually recorded numerous conversations with individuals suspected to be linked to organized crime. A majority of these

consensually recorded conversations were recorded prior to the initial application for an order authorizing inception of wire and oral communications.

FBI agents were of the opinion in March, 1985, that the consensually recorded conversations provided evidence of illegal activities of several investigative subjects. It is submitted that John Vaccaro was one of the subjects to whom the FBI agents referred.

Despite the frequent evidentiary incidence of possible criminal conduct obtained through these investigative procedures, the government asserted that normal investigative procedures had been tried and had failed. Alternatively, the government asserted these procedures to be unlikely to succeed or too dangerous if tried. These assertions were made in the face of the cooperation and successful infiltration of the perceived criminal organization by Craig and Lawrence Fiato (notwithstanding their alleged

inability to be "initiated" into La Cosa Nostra) despite their frequent association with Mr. Vaccaro, who, according to the government, is among the heirarchy of La Cosa Nostra and despite the existence of a third "independent" informant (Robert Kessler) aware of Mr. Vaccaro's activities. No attempts to contact the alleged extortion scheme victims was set forth by law enforcement indicating efforts to secure testimony or cooperation. Nor was the refusal of such victims to cooperate or testify specifically asserted.

The utilization of normal investigative techniques as set forth in the affidavits for wiretap applications diminished after the first and second authorizations were implemented. Having received judicial authorization to wiretap, utilization of previously successful investigative techniques was reduced to a minimum.

Pursuant to a plea agreement, Mr. Vaccaro reserved his right to a review of the

District Court's denial of his Motion to Suppress electronic surveillance evidence obtained from wiretaps improperly authorized in violation of Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Section 2510-2520) and the Fourth Amendment of the United States Constitution.

ARGUMENT

The United States Supreme Court has recognized that wiretapping and electronic surveillance present profound dangers. Berger v. New York, 388 U.S. 41 (1967). As a result of the decision of Berger, Congress took it upon itself to pass Title III of the Omnibus Control and Safe Streets Act of 1968, a comprehensive treatment of the entire area of wiretapping and electronic surveillance. 18 U.S.C. Sections 2510-2520. It is Title III, along with the Fourth Amendment, that governs the analysis of all wiretapping and electronic surveillance.

Whether a full and complete statement of

facts pursuant to 18 U.S.C. Section 2518(1)(c) was presented to the District Court is reviewed de novo. United States v. Ippolito, 774 F.2d 1482, 1484 (9th Cir. 1985). The District Court's decision whether adequate necessity for a wiretap was shown is reviewed for an abuse of discretion. United States v. Brone, 792 F.2d 1504, 1506 (9th Cir. 1986).

Title 18 U.S.C. Section 2518 is clear on its face. Subsection (1)(c) requires the government to state, fully and completely, why other investigative measures will or have not worked or whether such measures would be too dangerous.

This Court has stated that the government must identify specific circumstances which show that usual investigative means "cannot reveal the broader picture". United States v. Simpson, 813 F.2d 1462, 1472 (9th Cir. 1987) (emphasis in original opinion). Conclusory statements by themselves are not sufficient (see Brone,

supra, at 1506), and the government may not avoid specificity in its wiretap applications by "making general allegations about classes of cases. . ." Ippolito, supra, at 1486.

The government in the case at bar begins its purported showing of necessity with precisely what Ippolito prohibited:

> The La Cosa Nostra, including the Los Angeles organized crime family, has had a reputation since the 1930's for reprisal against anyone who does not respect their demands or who would testify concerning illegal activity.

The paragraph goes on to claim that electronic surveillance is needed to identify potential victims who would probably afraid or might be reluctant to testify.

The irony of these allegations lies in the fact that the government has employed cooperating witnesses since the beginning of its investigation in the case at hand, and, according to its own wiretap affidavits, has obtained a great amount of information from these informants. There has been no showing

by the government which withstands the necessity requirement of Section 2518.

Nowhere in the affidavit does the government show that alleged victims have refused to testify. Instead, the government says that "none of the victims of the extortion schemes have come forward and offered cooperation or testimony to law enforcement." The government then goes on to state that organized crime victims, in general, are reluctant to testify. Such conclusions are insufficient. See, Ippolito, supra, at 1486 ("the affidavit must show with specificity why in this particular investigation ordinary means of investigation will fail. Citing United States v. Robinson, 698 F.2d 448, 453 (D.C.Cir. 1983) per curium (emphasis in original)).

Ippolito is of particular significance to the instant case, because not only did the same government attorney (James Henderson) conduct the investigation in both Ippolito and

the instant case, but the same boilerplate affidavit language was used in both cases. One of the Ippolito affidavit paragraphs contain the following language:

> La Cosa Nostra, including the Los Angeles organized crime family, has had a reputation since the 1930's for reprisals against anyone who does not respect their demands or who would testify concerning illegal activity.

Ippolito, at 1483.

This language used in the Ippolito affidavit which was struck down by the Court is nearly verbatim to the language used in the affidavit in the case at bar. The Ippolito affidavit also stated:

> In addition none of the sources utilized in this affidavit are familiar with all of the various aspects of the criminal enterprise.

Ippolito, at 1483-1484.

The instant affidavit states:

> Craig and Lawrence Fiato are not familiar with all of the various aspects of the criminal activities being carried on by the Los Angeles family of La Cosa Nostra.

Further,

> Kessler . . . is not privy to the activities of the heirarchy of the Los Angeles Family of La Cosa Nostra and is not familiar with all of the various aspects of their criminal activities.

The Ippolito and Simpson wiretaps were held illegal because the government made misstatements concerning the necessity of a wiretap. By the time of the instant case, the government realized it had to change its wiretap-seeking tactics. Though the government still insists on taking the same language from its word processor, it no longer misrepresents the success of its normal investigative techniques. The government simply admits that it has had some success, but not enough success and therefore needs a wiretap. Oddly enough, one of the cases cited in the government's brief, United States v. Baker, 589 F.2d 1008, 1011 (9th Cir. 1979), lauds the government's affidavit for not using boilerplate, conclusory language; for tailoring its affidavit to the facts of the particular case; for not using language

applicable to a class of cases; and for not relying unduly upon the investigator's experience in other investigations.

Rather than actively investigating this case, the government sat back and expected alleged victims to give it a call and volunteer to testify. Instead of approaching these people itself, the government decided on its own that no one would testify, because in other cases these people:

> In addition to the fear of being harmed, are themselves prior participants or currently involved in illegal activity, and as such refuse to cooperate with law enforcement to any specific degree.

Without ascertaining whether any of the alleged victims in this case were afraid, or even whether these people were involved in illegal activity, the government concluded it had no witnesses and therefore needed electronic surveillance. It must be noted, however, that Craig and Lawrence Fiato, whom the government knew to be involved in illegal activity, were quite willing to become active

informants and to testify.

The government had yet another informant, Robert Kessler, who met with a number of suspects who were subjects of investigation in this case.

Clearly then, the government was able to procure informants when it made the attempt. The government has made no showing that it would not have acquired any witnesses necessary had it chosen to approach witnesses. The only evidence is that the government approached three people, all of whom were willing to cooperate.

Although the government is not required to exhaust every alternative, Brone, supra, at 1506, it must show specifically how or why normal investigatory techniques did not or would not work. United States v. Spagnuolo, 549 F.2d 705 (9th Cir. 1977). The Fiatos and Kessler had met with several of the investigation subjects and were becoming increasingly involved with and trusted in the

alleged criminal organization. Mr. Gelfuso, who is one of the co-defendants in this case, had no qualms in revealing information to the government informants which one would expect to be extremely confidential in a "sophisticated" criminal organization. Craig Fiato had begun initiating purported drug deals and extortion schemes and reporting to Mr. Gelfuso. Finally, Mr. Gelfuso supported Craig Fiato when other investigation subjects said Fiato was an informant.

There is no question the government had found a successful method in using the Fiatos as well as Kessler in its investigation. It was the government who chose not to obtain other witnesses based only upon speculation resulting from other cases and its "knowledge" of La Cosa Nostra since the 1930's. Where the government approached potential informants in this particular investigation, it acquired them. The government has made no specific factual showing that such techniques had ever

failed in this case. The government improperly and repeatedly made general allegations about classes of cases in order to conceal its own lack of action in this case.

In brief, what we have here is a government wiretap affidavit that states:

(a) This is an investigation into the Los Angeles La Cosa Nostra which has been terrible since the 1930's;

(b) The three people approached in this investigation became informants and have obtained incriminating evidence;

(c) The government is not going to try any other normal investigative techniques because:

(i) Such techniques have sometimes not worked in other cases,

(ii) This is a La Cosa Nostra case,

(iii) Further normal investigative techniques might

result in the suspects whose homes had already been searched learning of the fact that they are being investigated;

(d) Therefore a wiretap is necessay.

Due to the complete lack of particularization of facts which would be applicable to this particular case, the affidavit according to Ninth Circuit caselaw and Title 18 U.S.C. Section 2518 must fall. Also, the subsequent wiretaps which were authorized on the basis of evidence obtained from the instant wiretap also must fall. Wong Sun v. United States, 371 U.S. 471 (1963).

CONCLUSION

For the foregoing reasons, the Defendant, John Vaccaro, respectfully requests that his Petition for Writ of Certiorari be granted.

Respectfully submitted,

DOMINIC P. GENTILE, LTD.

By: _____

DOMINIC PASQUALE GENTILE
302 East Carson Ave., #600
Las Vegas, NV 89101
(702) 386-0066

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, DOMINIC PASQUALE GENTILE, having first been duly sworn, deposes and says:

That affiant is, and was when the herein described mailing took place, a citizen of the United States of America, over 21 years of age, and not a party to, nor interested in, the within action; that on the 13th day of July, 1989, affiant deposited in the Post

Office at Las Vegas, Nevada, forty copies of the within Petition for Writ of Certiorari, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to:

United States Supreme Court
Joseph F. Spaniol, Jr., Clerk
One First Street, N.E.
Washington, D.C. 20543

the Clerk of the United States Supreme Court; and that there is regular communication by mail between the place of mailing and place so addressed.

DOMINIC PASQUALE GENTILE

SUBSCRIBED AND SWORN to before me
this 13th day of July, 1989.

NOTARY PUBLIC in and for said County
and State

Notary Public-State of Nevada
COUNTY OF CLARK
ADELE L. JOHANSEN
My Appointment Expires June 2, 1992

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of July, 1989, I duly deposited for mailing, postage prepaid, at Las Vegas, Nevada, three (3) true and correct copies of the foregoing Petition for Writ of Certiorari to the following:

The Solicitor General
Department of Justice
Washington, D.C. 20530

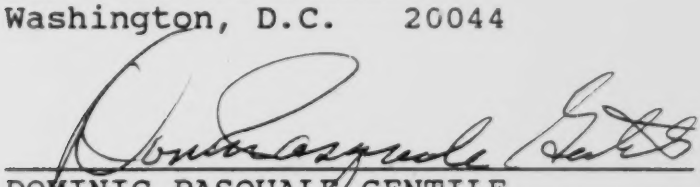
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Attorney for Petitioner
JOHN JOSEPH VACCARO

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of July, 1989, I duly deposited for mailing, postage prepaid, at Las Vegas, Nevada, a true and correct copy of the foregoing Petition for Writ of Certiorari to the following:

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APPENDIX A

Memorandum of the decision of the United States Court of Appeals for the Ninth Circuit.

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. LUIGI GELFUSO, Defendant-Appellant.	)	No. 88-5183 CR-87-439-3-FFF (District Court)
UNITED STATES OF AMERICA, Plaintiff-Appellee, v. JOHN JOSEPH VACCARO, Defendant-Appellant.	)	No. 88-5188 CR-87-439-4-FFF (District Court) MEMORANDUM

Appeal from the United States District Court
for the Central District of California
Honorable Ferdinand F. Fernandez,
District Judge, Presiding
Argued and Submission Deferred
March 8, 1989, Pasadena, California
Resubmitted March 30, 1989

BEFORE: SNEED, FARRIS and PREGERSON, Circuit Judges.

Luigi Gelfuso and John Joseph Vaccaro appeal their convictions for conspiracy to

collect an extension of credit by extortionate means in violation of 18 U.S.C. Section 894. Gelfuso also appeals his conviction for conspiracy and attempt to distribute cocaine in violation of 21 U.S.C. Sections 841(a)(1) and 846. Gelfuso and Vaccaro entered conditional guilty pleas reserving the right to appellate review of the district court's denial of pretrial motions to suppress wiretape evidence. Gelfuso and Vaccaro moved to suppress electronic surveillance evidence contending the evidence was obtained from wiretaps improperly authorized in violation of Title II of the Omnibus Crime Control and Safe Streets Act of 1986 (18 U.S.C. Sections 2510-2520). We affirm.

We review for abuse of discretion the authorizing district court's determination that the wiretaps were necessary. United States v. Brone, 792 F.2d 1504, 1506 (9th Cir. 1986) (citing United States v. Brown, 761 F.2d 1272, 1275 (9th Cir. 1985)). A

district court may authorize wiretapping if, based on facts submitted by the government the court determines that "normal investigative procedures have been tried and failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous." 18 U.S.C. Section 2518(3)(c).

The affidavits in this case support the district court's finding that the wiretap was necessary. The affidavits support a finding "that ordinary investigative procedures, employed in good faith, would likely . . . [have been] . . . ineffective . . . ." Brone, 792 F.2d at 1506 (citing United States v. Ippolito, 774 F.2d 1482, 1486 (9th Cir. 1985)). Law enforcement officials "need not exhaust every conceivable alternative before obtaining a wiretap." United States v. Spagnuolo, 549 F.2d 705, 710 (9th Cir. 1977). We find no abuse of discretion.

AFFIRMED.

APPENDIX B

APPENDIX B

18 U.S.C. Section 2510. Definitions.

As used in this chapter--

(1) "wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications;

(2) "oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

(3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(4) "intercept" means the aural

acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device.

(5) "electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than--

(a) any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

(b) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(6) "person" means any employee, or agent of the United States or any State or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation;

(7) "Investigative or law enforcement officer" means any officer of the United States or of a State or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(8) "contents", when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication;

(9) "Judge of competent jurisdiction" means--

(a) a judge of the United States

district court or a United States court of appeals; and

(b) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire or oral communications;

(10) "communication common carrier" shall have the same meaning which is given the term "common carrier" by section 153(h) of title 47 of the United States Code; and

(11) "aggrieved person" means a person who was a party to any intercepted wire or oral communication or a person against whom the interception was directed.

18 U.S.C. Section 2518. Procedure for interception of wire or oral communications

(1) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge of

competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, (iv) the identity of the person, if known, committing the offense

and whose communications are to be intercepted;

(c) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) a full and complete statement of the facts concerning all previous applications known to the

individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(f) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(3) Upon such application, the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire or oral communications within the territorial jurisdiction of the

court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that--

(a) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 2516 of this chapter;

(b) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(c) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) there is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of such

offense, or are leased to, listed in the name of, or commonly used by such person.

(4) Each order authorizing or approving the interception of any wire or oral communication shall specify--

(a) the identity of the person, if known, whose communications are to be intercepted;

(b) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(e) the period of time during which such interception is authorized,

including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

(5) No order entered under this section may authorize or approve the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to

minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days.

(6) Whenever an order authorizing interception is entered pursuant to this chapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require.

(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that--

(a) an emergency situation

exists with respect to conspiratorial activities threatening the national security interest or to conspiratorial activities characteristic of organized crime that requires a wire or oral communication to be intercepted before an order authorizing such interception can with due diligence be obtained, and

(b) there are grounds upon which an order could be entered under this chapter to authorize such interception,

may intercept such wire or oral communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an

order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (d) of this section on the person named in the application.

(8)(a) The contents of any wire or oral communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subsection shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge

and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 2517 of this chapter for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under subsection (3) of section 2517.

(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(c) Any violation of the provisions of

this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under section 2518(7)(b) which is denied or the termination of the period of an order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of--

(1) the fact of the entry of the order or the application;

(2) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

(3) the fact that during the period wire or oral communications were

or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

(9) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days

before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(10)(a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that--

(i) the communication was unlawfully intercepted;

(ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

(iii) the interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial hearing, or proceeding unless there was n

opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(b) In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken

within thirty days after the date the orde
was entered and shall be diligentl
prosecuted.

APPENDIX C

Wiretap Affidavit.

AFFIDAVIT

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE INTER-
CEPTION OF WIRE AND ORAL COMMUNICATIONS

I, Michael F. Wacks, Special Agent (SA), Federal Bureau of Investigation (FBI), Los Angeles, California, being duly sworn states:

1. I am an "investigative or law enforcement officer of the United States" within the meaning of Section 2510(7) of Title 18, United States Code, that is, an officer of the United States who is empowered by law to conduct investigations of and make arrests for offenses enumerated in Section 2516, Title 18, United States Code.

2. This affidavit seeks authorization to intercept the wire and oral communications of the following:

(a) Wire communications of Luigi Gelfuso, also known as Louie Gelfuso; Peter John Milano, also known as Pete Milano; Carmen Milano, also known as Carmine Milano; John

Joseph Vaccaro, also known as Johnny Vaccaro; Albert J. Nunez, also known as Albie Nunez or Albie Munoz; Stephen Anthony Cino, also known as Steve Cino; Rocco James Zangari, also known as Rocky Zangari; John Pat DeMattia, Jr., also known as John DeMattia; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; Robert Kessler, also known as Bob Kessler; Michael Gelfuso, also known as Mike Gelfuso; Mike (Last Name Unknown) and others as yet unknown to and from telephone number (818) 906-8145, subscribed to by Joseph Nazario, 4733 Haskell Avenue, Apartment Number 19, Encino, California.

(b) Oral communications of Luigi Gelfuso, also known as Louie Gelfuso; Carmen Milano, also known as Carmine Milano; John Joseph Vaccaro, also known as Johnny Vaccaro; Albert J. Nunez, also known as Albie Nunez or Albie Munoz; Stephen Anthony Cino, also known as Steve Cino; Rocco James Zangari, also known

as Rocky Zangari; John Pat DeMattia, Jr., also known as John DeMattia; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; Robert Kessler, also known as Bob Kessler; Michael Gelfuso, also known as Mike Gelfuso; Mike (Last Name Unknown) and others as yet unknown at the residence of Luigi Gelfuso, 4733 Haskell Avenue, Apartment Number 19, Encino, California.

3. The wire and oral interceptions sought herein are to be conducted under Section 2518 of Title 18, United States Code, concerning offenses enumerated in Section 2516 of Title 18, United States Code, that is:

(a) Offenses involving Racketeer Influenced and Corrupt Organizations in violation of Section 1963 of Title 18, United States Code, incorporating Sections 1962(a), 1962(b), 1962(c) and 1962(d) of Title 18, United States Code, more particularly defined in Title 18, United States Code, Section 1961,

as follows:

(1) Felony offenses involving murder in violation of Sections 187, 188, 189 and 190 for the Penal Code of the State of California and conspiracies to commit such offenses in violation of Sections 182, 184 and 1104 of the Penal Code of the State of California.

(2) Felony offenses involving extortion in violation of Sections 518, 519, 520 and 524 of the Penal Code of the State of California and conspiracy to commit such offenses in violation of Sections 182, 184 and 1104 of the Penal Code of the State of California.

(3) Offenses involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 841(a)(1) of Title 21, United States Code.

(4) Offenses involving conspiracy to violate Section 841(a)(1) of

Title 21, United States Code, involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 846 of Title 21, United States Code.

(5) Offenses involving the use of a communication facility to facilitate violations of Sections 841(a)(1) and 846 of Title 21, United States Code, in violation of Section 843(b) of Title 21, United States Code.

(6) Offenses involving the making of extortionate extensions of credit in violation of Section 892 of Title 18, United States Code.

(7) Offenses involving the financing of extortionate extensions of credit in violation of Section 893 of Title 18, United States Code.

(8) Offenses involving the use of an extortionate means to collect on extensions of credit in violation of Section

894 of Title 18, United States Code.

(9) Offenses involving conspiracy to violate Sections 892 and 894 of Title 18, United States Code in violation of Sections 892 and 894 and 371 of Title 18, United States Code.

(10) Offenses involving the disruption of Commerce by extortion in violation of Section 1951 of Title 18, United States Code.

(11) Offenses involving conspiracy to violate Section 1951 of Title 18, United States Code, in violation of Sections 1951 and 371 of Title 18, United States Code.

(b) Offenses involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 841(a)(1) of Title 21, United States Code.

(c) Offenses involving conspiracy to violate Section 841(a)(1) of Title 121,

United States Code, involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 846 of Title 21, United States Code.

(d) Offenses involving the use of a communication facility to facilitate violations of Sections 841(a)(1) and 846 of Title 21, United States Code, in violation of Section 843(b) of Title 21, United States Code.

(e) Offenses involving the making of extortionate extensions of credit in violation of Section 892 of Title 18, United States Code.

(f) Offenses involving the financing of extortionate extensions of credit in violation of Section 893 of Title 18, United States Code.

(g) Offenses involving the use of an extortionate means to collect on extensions of credit in violation of Section 894 of Title 18, United States Code.

(h) Offenses involving conspiracy to violate Sections 892, 893 and 894 of Title 18, United States Code in violation of Sections 82, 894 and 371 of Title 18, United States Code.

(i) Offenses involving the disruption of commerce by extortion in violation of Section 1951 of Title 18, United States Code.

(j) Offenses involving conspiracy to violate Section 1951 of Title 18, United States Code, in violation of Sections 1951 and 371 of Title 18, United States Code.

4. I have been employed as a Special Agent of the Federal Bureau of Investigation for 14 years. I am presently assigned to the Los Angeles Office of the Federal Bureau of Investigation, and have principally investigated cases involving organized crime activity. I have personally conducted the investigation of the offenses referred to in the foregoing paragraphs, and because of my

personal participation in this investigation and reports made to me by other agents of the Federal Bureau of Investigation and other Federal, State and local law enforcement agencies, I am familiar with all the circumstances and offenses. Based upon this familiarity, I allege the facts contained in the paragraphs below to show that:

(a) There is probable cause to believe that Luigi Gelfuso, also known as Louie Gelfuso; Peter John Milano, also known as Pete Milano; Carmen Milano, also known as Carmine Milano; John Joseph Vaccaro, also known as Johnny Vaccaro; Albert J. Nunez, also known as Albie Nunez or Albie Munoz and others as yet unknown have been and are now committing the following offenses.

(1) Offenses involving Racketeer Influenced and Corrupt Organizations in violation of Section 1963 of Title 18, United States Code, incorporating Sections 1962(a), 1962(b), 1962(c) and 1962(d) of Title

18, United States Code, more particularly defined in Title 18, United States Code, Section 1962, as follows:

(A) Felony offenses involving extortion in violation of Sections 518, 519, 520 and 524 of the Penal Code of the State of California and conspiracy to commit such offenses in violation of Sections 182, 184 and 1104 of the Penal Code of the State of California.

(B) Offenses involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 841(a)(1) of Title 21, United States Code.

(C) Offenses involving conspiracy to violate Section 841(a)(1) of Title 21, United States Code, involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 846 of Title 21, United States Code.

(D) Offenses involving the use of a communication facility to facilitate violations of Sections 841(a)(1) and 846 of Title 21, United States Code, in violation of Section 843(b) of Title 21, United States Code.

(E) Offenses involving the use of an extortionate means to collect on extensions of credit in violation of Section 894 of Title 18, United States Code.

(F) Offenses involving the financing of extortionate extensions of credit in violation of Section 893 of Title 18, United States Code.

(G) Offenses involving the use of an extortionate means to collect on extensions of credit in violation of Section 894 of Title 18, United States code.

(H) Offenses involving conspiracy to violate Sections 892 and 894 of Title 18, United States Code in violation of

Sections 892 and 894 and 371 of Title 18, United States Code.

(I) Offenses involving the disruption of commerce by extortion in violation of Section 1951 of Title 18, United States Code.

(J) Offenses involving conspiracy to violate Section 1951 of Title 18, United States Code, in violation of Sections 1951 and 371 of Title 18, United States Code.

(2) Offenses involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 841(a)(1) of Title 21, United States Code.

(3) Offenses involving conspiracy to violate Section 841(a)(1) of Title 21, United States Code, involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 846 of Title 21, United

States Code.

(4) Offenses involving the use of a communication facility to facilitate violations of Sections 841(a)(1) and 846 of Title 21, United States Code, in violation of Section 843(b) of Title 21, United States Code.

(5) Offenses involving the making of extortionate extensions of credit in violation of Section 892 of Title 18, United States Code.

(6) Offenses involving the financing of extortionate extensions of credit in violation of Section 893 of Title 18, United States Code.

(7) Offenses involving the use of an extortionate means to collect on extensions of credit in violation of Section 894 of Title 18, United States Code.

(8) Offenses involving conspiracy to violate Sections 892, 893 and 894 of Title 18, United States Code in

violation of Sections 892, 894 and 371 of Title 18, United States Code.

(9) Offenses involving the disruption of commerce by extortion in violation of Section 1951 of Title 18, United States Code.

(10) Offenses involving conspiracy to violate Section 1951 of Title 18, United States Code, in violation of Sections 1951 and 371 of Title 18, United States Code.

(b) There is probable cause to believe that Mike (Last Name Unknown) and Michael Gelfuso, also known as Mike Gelfuso and others as yet unknown have been and are now committing the following offenses:

(1) Offenses involving Racketeer Influenced and Corrupt Organizations in violation of Section 1963 of Title 18, United States Code, incorporating Sections 1962(a), 1962(b), 1962(c) and 1962(d) of Title 18, United States Code, more particularly

defined in Title 18 United States Code, Section 1961, as follows:

(A) Offenses involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 841(a)(1) of Title 21, United States Code.

(B) Offenses involving conspiracy to violate Section 841(a)(1) of Title 21, United States Code, involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 846, Title 21, United States Code.

(C) Offenses involving the use of a communication facility to facilitate violations of Sections 841(a)(1) and 846 of Title 21, United States Code, in violation of Section 843(b) of Title 21, United States Code.

(2) Offenses involving the distribution or possession with intent to

distribute or possess controlled substances in violation of Section 841(a)(1) of Title 21, United States Code.

(3) Offenses involving conspiracy to violate Section 841(a)(1) of Title 21, United States Code, involving the distribution or possession with intent to distribute or possess controlled substances in violation of Section 846 of Title 21, United States Code.

(4) Offenses involving the use of a communication facility to facilitate violations of Sections 841(a)(1) and 846 of Title 21, United States Code, in violation of Section 843(b) of Title 21, United States Code.

(c) There is probable cause to believe that Luigi Gelfuso, also known as Louie Gelfuso; Peter John Milano, also known as Pete Milano; Carmen Milano, also known as Carmine Milano; John Joseph Vaccaro, also known as Johnny Vaccaro; Albert J. Nunez, also

known as Albie Nunez or Albie Munoz; Stephen Anthony Cino, also known as Steve Cino; Rocco James Zangari, also known as Rocky Zangari; John Pat DeMattia, Jr., also known as John DeMattia and others as yet unknown have been and are now committing the following offenses:

(1) Offenses involving Racketeer Influenced and Corrupt Organizations in violation of Section 1963 of Title 18, United States Code, incorporating Sections 1962(a), ,1962(b), 1962(c) and 1962(d) of Title 18, United States Code, more particularly defined in Title 18, United States Code, Section 1961, as follows:

(A) Felony Offenses involving extortion in violation of Sections 518, 519, 520 and 524 of the Penal Code of the State of California and conspiracy to commit such offenses in violation of Sections 182, 184 and 1104 of the Penal Code of the State of California.

(B) Offenses involving the

making of extortionate extensions of credit in violation of Section 892 of Title 18, United States Code.

(C) Offenses involving the financing of extortionate extensions of credit in violation of Section 893 of Title 18, United States Code.

(D) Offenses involving the financing of extortionate extensions of credit in violation of Section 893 of Title 18, United States Code.

(E) Offenses involving conspiracy to violate Sections 892 and 894 of Title 18, United States Code in violation of Sections 892 and 894 and 371 of Title 18, United States Code.

(F) Offenses involving the disruption of commerce by extortion in violation of Section 1951 of Title 18, United States Code.

(G) Offenses involving conspiracy to violate Section 1951 of Title

18, United States Code, in violation of Sections 1951 and 371 of Title 18, United States Code.

(2) Offenses involving the making of extortionate extensions of credit in violation of Section 892 of Title 18, United States Code.

(3) Offenses involving the financing of extortionate extensions of credit in violation of Section 893 of Title 18, United States Code.

(4) Offenses involving the use of an extortionate means to collect on extensions of credit in violation of Section 894 of Title 18, United States Code.

(5) Offenses involving conspiracy to violate Sections 892, 893 and 894 of Title 18, United States Code in violation of Sections 892, 894 and 371 of Title 18, United States Code.

(6) Offenses involving the disruption of commerce by extortion in

violation of Section 1951 of Title 18, United States Code.

(7) Offenses involving conspiracy to violate Section 1951 of Title 18, United States Code, in violation of Sections 1951 and 371 of Title 18, United States Code.

(d) There is probable cause to believe that Luigi Gelfuso, also known as Louie Gelfuso and Albert J. Nunez, also known as Albie Nunez or Albie Munoz, and others as yet unknown have been and are now committing the following offenses:

(1) Offenses involving Racketeer Influenced and Corrupt Organizations in violation of Section 1963 of Title 18, United States Code, incorporating Section 1962(a), 1962(b), 1962(c) and 1962(d) of Title 18, United States Code, more particularly defined in Title 18, United States Code, Section 1961, as follows:

(A) Felony offenses

involving murder in violation of Sections 187, 188, 189 and 190 of the Penal Code of the state of California and conspiracies to commit such offenses in violation of Sections 182, 184 and 1104 of the Penal Code of the State of California.

(e) There is probable cause to believe that telephone number (818) 906-8145, subscribed to by Joseph Nazario, 4733 Haskell Avenue, Apartment Number 19, Encino, California, is being utilized in connection with the commission of the offenses set forth in paragraphs 4(a), 4(b), 4(c) and 4(d) of this affidavit.

(f) There is probable cause to believe that the residence of Luigi Gelfuso, 4733 Haskell Avenue, Apartment Number 19, Encino, California, is being utilized in connection with the commission of the offenses set forth in paragraphs 4(a), 4(b), 4(c) and 4(d) of this affidavit.

(g) There is probable cause to

believe that telephone number (818) 906-8145, subscribed to by Joseph Nazario, 4733 Haskell Avenue, Apartment 19, Encino, California, has been and will be used by Luigi Gelfuso, also known as Louie Gelfuso; Peter John Milano, also known as Pete Milano; Carmen Milano, also known as Carmine Milano; John Joseph Vaccaro, also known as Johnny Vaccaro; Albert J. Nunez, also known as Albie Nunez or Albie Munoz; Stephen Anthony Cino, also known as Steve Cino; Rocco James Zangari, also known as Rocky Zangari; John Pat DeMattia, Jr., also known as John DeMattia; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; Robert Kessler, also known as Bob Kessler; Michael Gelfuso, also known as Mike Gelfuso; Mike (Last Name Unknown) and others as yet unknown.

(h) There is probable cause to believe that oral communications will be made at the residence of Luigi Gelfuso, 4733 Haskell Avenue, Apartment 19, Encino,

California, by Luigi Gelfuso, also known as Louie Gelfuso; Carmen Milano, also known as Carmine Milano; John Joseph Vaccaro, also known as Johnny Vaccaro; Albert J. Nunez, also known as Albie Nunez or Albie Munoz; Stephen Anthony Cino, also known as Steve Cino; Rocco James Zangari, also known as Rocky Zangari; John Pat DeMattia, Jr., also known as John DeMattia; Craig Anthony fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; Robert Kessler, also known as Bob Kessler; Michael Gelfuso, also known as Mike Gelfuso; Mike (Last Name Unknown) and others as yet unknown.

(i) There is probable cause to believe that particular wire and oral communications of Luigi Gelfuso, also known as Louie Gelfuso; Peter John Milano, also known as Pete Milano; Carmen Milano, also known as Carmine Milano; John Joseph Vaccaro, also known as Johnny Vaccaro; Albert J. Nunez, also known as Albie Nunez or Albie Munoz; Stephen

Anthony Cino, also known as Steve Cino; Rocco James Zangari, also known as Rocky Zangari; John Pat DeMattia, Jr., also known as John DeMattia; Michael Gelfuso, also known as Mike Gelfuso; Mike (Last Name Unknown) and others as yet unknown will be obtained through interception. In particular,

(PAGE 14 AND 15 OF AGENT MICHAEL F. WACKS'S AFFIDAVIT WERE MISSING FROM ATTORNEY'S COPY SUPPLIED AS PART OF THE DISCOVERY BY THE ASSISTANT UNITED STATES ATTORNEY HANDLING THIS CASE. AS SOON AS COPIES CAN BE OBTAINED FROM THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, THIS PORTION OF THE AFFIDAVIT WILL BE SUPPLEMENTED).

FACTS AND CIRCUMSTANCES

7. I and Special Agent William T. Wiechert, Federal Bureau of Investigation, Los Angeles, California, during the period November, 1982 through February, 1984, conducted an investigation of Lawrence and Craig Fiato, Robert Zeichick and others

involved in loansharking activities. These three individuals, among others, were subjects of court authorized interceptions of oral and wire communications. Court authorized searches of the persons and residences of these three individuals were conducted on July 7, 1983. These searches failed to produce evidence of the activities of superiors in the Los Angeles La Cosa Nostra family.

8. On February 21, 1984, Lawrence Fiato approached an attorney with the Los Angeles Organized Crime and Racketeering Section, United States Department of Justice. Fiato agreed to enter a plea of guilty and to participate as a cooperating government witness in a continuing investigative effort involving the Los Angeles family of La Cosa Nostra and has agreed to testify in all matters.

9. On March 8, 1984, Craig Fiato approached an attorney with the Los Angeles Organized Crime and Racketeering Section.

Fiato is the brother of Lawrence Fiato. Fiato agreed to enter a plea of guilty and to participate as a cooperating government witness in a continuing investigative effort involving the Los Angeles family of La Cosa Nostra and has agreed to testify in all matters.

10. I and Special Agent William T. Wiechert have, since March of 1984, supervised the cooperative activities of Craig and Lawrence Fiato. During the period from March of 1984 to mid January of 1985, Craig and Lawrence Fiato have consensually recorded various individuals believed by numerous Southern California law enforcement agencies to be members of the Los Angeles family of La Cosa Nostra.

11. It is my opinion, and the opinion of other Special Agents of the FBI involved in and familiar with this investigation, that the aforementioned consensually recorded conversations provide evidence of illegal

activities of some members of La Cosa Nostra, and several of their associates.

12. Craig and Lawrence Fiato have demonstrated a complete willingness to cooperate in the investigative effort. The information provided by Craig and Lawrence Fiato has been corroborated, when possible, through other confidential sources and through physical surveillances.

13. On April 10, 1984, a consensually recorded conversation was held between Craig and Lawrence Fiato and Luigi Gelfuso in Lawrence Fiato's automobile. during this conversation, Craig Fiato told Gelfuso that he and his "crew" had extracted a $5,000 tribute payment from a local cocaine dealer. These funds were provided to Craig and Lawrence Fiato by the Los Angeles FBI. Craig Fiato then proceeded to tell Gelfuso that this money could be divided with the Los Angeles family. Gelfuso stated that the money would be divided in the following manner: $3,000 to Craig and

Lawrence Fiato, $1,000 to "him" and $1,000 to Gelfuso. Craig Fiato told Gelfuso that this particular cocaine dealer was told that he had to pay $5,000 a week for the privilege of dealing cocaine in Los Angeles. After this meeting, Lawrence Fiato returned $3,000 to the FBI.

14. It is my opinion and the opinion of other Special Agents of the FBI involved in and familiar with this investigation and based on later conversations that Luigi Gelfuso's reference to "$1,000 for him" during the April 10, 1984, conversation with Craig and Lawrence Fiato refers to Peter Milano, Acting Boss of the Los Angeles La Cosa Nostra. Craig and Lawrence Fiato have stated that Luigi Gelfuso has told them that Peter Milano was the Acting Boss of the Los Angeles La Cosa Nostra at this time.

15. On April 10, 1984, Craig Fiato further advised Luigi Gelfuso that he knew of a local bookmaker, identified only by the name

of "Spike", that worked at a racetrack. Fiato told Gelfuso that he had heard that Spike w as clearing a couple thousand dollars a week and was protected by Vito Spillone, a reputed Chicago La Cosa Nostra member. Fiato requested Fiato's permission to "make a move" on Spike. Gelfuso gave his approval to "make a move" on Spike. Gelfuso said he had recently "grabbed" Spillone and Spillone had told him that he was not doing anything in Los Angeles. Fiato stated that he would ask Spike "Who has given him permission to make book at the track." Fiato would then arrange a meeting between Spike and Gelfuso so that an amount could be determined for Spike's tribute payment to the Los Angeles La Cosa Nostra family.

16. Luigi Gelfuso stated that no other La Cosa Nostra family had permission to do anything in Los Angeles unless it was cleared with the Los Angeles La Cosa Nostra family. Gelfuso said that if Spike was with another La

Cosa Nostra family, he wanted to know so that the situation could be straightened out and the Los Angeles family would get its cut.

17. On April 10, 1984, Luigi Gelfuso instructed Craig Fiato not to associate with John De Mattia for the present time. Gelfuso was distributed by De Mattia's lack of willingness to get out and "earn for the family."

18. Concerning the proposed La Cosa Nostra membership of Craig Fiato, Luigi Gelfuso stated that he had not heard from Frank Joseph Scibelli, also known as Skyball. Gelfuso stated that initial inquiries had been made back east under Craig Fiato's true name rather than his more commonly known street name. He said this had caused a delay. Fiato stated he would be willing to straighten out any questions about his status, but Gelfuso stated that this would be unnecessary and that he would straighten out the situation. Gelfuso told Fiato that if he needed him to

call him on his phone.

19. On April 25, 1984, a consensually recorded meeting was held between Craig and Lawrence Fiato and Luigi Gelfuso in Lawrence Fiato's automobile. During this meeting Craig Fiato gave Gelfuso a $2,000 tribute payment which Fiato stated was from a local cocaine dealer, but was provided to Craig Fiato by the Los Angeles FBI. As Craig Fiato gave this money to Gelfuso, Fiato stated that it was for Gelfuso and Pete. Gelfuso accepted the money. Craig Fiato has stated to me that when he referred to Pete he meant Peter Milano, Acting Boss, Los Angeles La Cosa Nostra.

20. Further, on April 25, 1984, Luigi Gelfuso told Craig Fiato that a local Los Angeles bookmaker, named Lenny Baden, was to make tribute payments of $2,000 a week to Mario (Last Name Unknown). Gelfuso stated that Mario (Last Name Unknown) had already instructed Baden to make arrangements for these payments. Gelfuso stated that if Baden

did not make these payments, he would have to be beaten up. Gelfuso advised Fiato that he would keep Fiato advised regarding this situation.

21. During the April 25, 1984, meeting, Luigi Gelfuso mentioned Craig Fiato's proposed membership in the Los Angeles La Cosa Nostra family. Gelfuso stated that he had learned from Ronnie Romanowski, a Los Angeles La Cosa Nostra associate and sometime business partner of Peter Milano, that Boston La Cosa Nostra member Joe Russo knew Fiato and would vouch for him. Gelfuso stated that in light of this information, he was no longer reaching out for Frank Joseph Scibelli, also known as Skyball, for verification. Gelfuso stated he was "going through another angle" concerning the verification of Fiato's association with Russo.

22. Additionally, on April 25, 1984, Craig Fiato asked Luigi Gelfuso what he wanted done with Danny Mondavano, a suspected

California loanshark, originally from the Boston area. Gelfuso stated that Peter Milano had told him to stay away from Mondavano for the time being.

23. On April 25, 1984, Luigi Gelfuso again mentioned an individual known as Spike supposedly protected by the Chicago La Cosa Nostra Family. Gelfuso again told Craig Fiato that if Spike was "connected" that Spike better reach out to them otherwise Spike would have to pay to work in Los Angeles. Gelfuso, upon leaving the meeting, told Craig Fiato that "Peter" whom Fiato understood to be Peter Milano, was extremely pleased with his work.

24. On April 25, 1984, Special Agent Robert M. Hamer, Federal Bureau of Investigation, Los Angeles, California, told me that he and Special Agent Roberta Beiter had on this date conducted a physical surveillance of Luigi Gelfuso and Craig and Lawrence Fiato. The three men were observed together at a parking lot adjacent to Kory's

International Deli and Bakery, 2949 Beverly Glenn Circle, Westwood, California.

25. On May 17, 1984, a consensually recorded meeting was held between Craig and Lawrence Fiato, Robert Kessler and Luigi Gelfuso at Gelfuso's residence, 4733 Haskell Avenue, Apartment 19, Encino, California (hereinafter referred to as Gelfuso's residence). Craig and Lawrence Fiato have had numerous meetings at Gelfuso's residence and have determined that Gelfuso lives alone.

26. After Craig and Lawrence Fiato and Robert Kessler entered Gelfuso's residence, Gelfuso asked to talk to Craig Fiato privately. Craig Fiato spoke to Gelfuso in a bedroom of the apartment. Gelfuso ordered Craig Fiato to locate Dennis Mondavano, the son of Danny Mondavano. As stated previously, Danny Mondavano is a suspected California loanshark, originally from the Boston area. Gelfuso explained that he had delayed looking for Dennis Mondavano because "Jimmy" was

originally supposed to take care of this matter. Gelfuso stated that they wanted "the kid grabbed" but "to leave the old man alone." Gelfuso stated that the son was causing all the trouble and they wanted him beaten. Gelfuso stated this would mean they would get $468,000 and that they could take one-half of the amount collected "right off the top".

27. It is my opinion and the opinion of other Special Agents of the FBI involved in and familiar with this investigation that "Jimmy" referred to in paragraph number 26 above is Vincent Dominic Cacci, also known as Jimmy Cacci, a superior in the Los Angeles La Cosa Nostra family.

28. During the May 17, 1984, meeting, Luigi Gelfuso stated that as soon as Dennis Mondavano was beaten, "they" would go to his father, Danny Mondavano, and say "Now you seek what happened to your son and next time we are going to bury the whole fucking family." Gelfuso then stated that "Pete", whom Craig

Fiato understood to be Peter Milano, wanted Craig Fiato to know that money derived from their activities would be divided equally among those involved.

29. Additionally on May 17, 1984, Craig Fiato asked about Lenny Baden. Gelfuso stated with regard to Baden "we are going to beat him too." Fiato told Gelfuso that an individual named Harold Elkind owed him $86,000. Fiato explained that Elkind was "connected" with Sonny and Carmine Lombardozzi, brothers, of New York. Carmine Lombardozzi is an alleged La Cosa Nostra "soldier" in the New York Gambino La Cosa Nostra family. Gelfuso told Fiato "to go grab him and let him call them." Gelfuso stated that "we have three problems with New York People right now."

30. On May 19, 1984, a consensually recorded meeting was held between Lawrence Fiato and Luigi Gelfuso at Gelfuso's residence. During the meeting, Fiato gave Gelfuso a $5,000 tribute payment allegedly

from a local Los Angeles drug dealer. These funds were provided to Fiato by the Los Angeles FBI. Gelfuso instructed Fiato to dive the $5,000 in the same manner as previous tribute payments had been divided. Fiato then divided the $5,000 by taking $3,000 for craig Fiato and himself and giving $2,000 to Gelfuso to split with Peter Milano. Fiato returned the $3,000 to the FBI. Gelfuso also inquired about Mondavano and reminded Fiato that it had "to be done right away".

31. On June 1, 1984, a consensually recorded meeting was held between Craig and Lawrence Fiato, Luigi Gelfuso and Albie Nunez. Albert J. Nunez, also known as Albie Nunez is a long time associate of Gelfuso. During this meeting, Gelfuso discussed monies owed to Craig Fiato by his former partner Robert Zeichick. Gelfuso gave Craig Fiato permission to "make a move" on Zeichick and Gene Holden, known to be a local Los Angeles bookmaker and former financial backer of Craig Fiato and

Zeichick in their loansharking operation. Craig Fiato explained to Gelfuso that Zeichick was attempting to cheat Fiato on the collection of "juice" payments or interest payments from a former loanshark victim of Fiato's. Gelfuso told Fiato that he should demand $20,000 from Zeichick for Gelfuso.

32. On June 4, 1984, a consensually recorded meeting was held between Craig Fiato, Luigi Gelfuso and Albie Nunez. This meeting took place at a Los Angeles area restaurant. During the meeting Gelfuso, after Fiato asked for permission, gave his approval to contact and collect monies owed to Fiato by various former loanshark victims of Fiato. Gelfuso counseled those present that they must be careful as many of these victims had been before a Federal grand jury probing Fiato's former loanshark operation with Zeichick.

33. As a result of the meetings on June 1, 1984 and June 4, 1984, an apparent dispute arose in the Los Angeles La Cosa Nostra family

concerning the potential collections from Robert Zeichick and Gene Holden.

34. On June 115, 1984, Luigi Gelfuso instructed Craig and Lawrence Fiato to meet with him at the Valley Hilton Hotel, Sherman Oaks, California. This meeting was consensually recorded by Craig Fiato. Craig and Lawrence Fiato were met at the hotel by Gelfuso, Jimmy Cacci, Rocco Zangari, Stephen Cino and John Vaccaro.

35. It is my opinion and the opinion of other Special Agents of the FBI involved in and familiar with this investigation that Jimmy Cacci, Rocco Zangari, Stephen Cino and John Vaccaro are members of the Los Angeles La Cosa Nostra. Additionally, I have been told by Craig and Lawrence Fiato that Luigi Gelfuso has identified these individuals as members of the Los Angeles La Cosa Nostra.

36. Luigi Gelfuso advised Craig Fiato that there would be no trouble, but that a dispute had arise and this was the purpose of

the meeting. Rocco Zangari told Craig Fiato that he had to leave Robert Zeichick alone "as he belongs strictly to us". Zangari stated that the "old man" wants it this way. Fiato stated that Zeichick and Gene Holden owed him money. Zangari and Jimmy Cacci stated that they would collect the money for Fiato. Zangari asked Fiato if he had made statements about Michael Rizzitello, an individual considered by Southern California law enforcement agencies to be a member of the Los Angeles La Cosa Nostra family. fiato stated Rizzitello had made statements about him. Gelfuso told Zangari that he had talked to Fiato about Rizzitello and that no further comments would be made.

37. It is my opinion, and the opinion of other Special Agents of the FBI involved in and familiar with this investigation that the "old man" referred to in paragraph number 36 above by Rocco Zangari is Peter Milano.

38. During the afternoon of June 15, 1984, a consensually recorded meeting was held between Craig and Lawrence Fiato and Luigi Gelfuso at Gelfuso's residence. Gelfuso stated that after the earlier meeting of this date at the Valley Hilton Hotel, he spent the afternoon with "him". Gelfuso advised Craig Fiato that after this afternoon meeting everything was alright and that he would personally straighten out the dispute with Jimmy Cacci and his group over collections from Robert Zeichick and Gene Holden. Gelfuso told Craig Fiato that Fiato did not answer to Cacci's people, but that he answered to Gelfuso.

39. It is my opinion, and the opinion of other Special Agents of the FBI involved in

and familiar with this investigation that when Luigi Gelfuso stated he spent the afternoon with "him" he was referring to Peter Milano.

40. On June 19, 1984, Lawrence Fiato told me of a conversation between himself, Craig Fiato, and Luigi Gelfuso at Gelfuso's residence. During this meeting, Craig Fiato gave Gelfuso another $5,000 tribute payment, provided by the Los Angeles FBI, allegedly from a local drug dealer. Gelfuso stated he was taking an extra $1,000 for himself and Peter Milano, for a total of $3,000. Craig Fiato was instructed to split the remaining $2,000 between himself and Lawrence Fiato. Craig Fiato returned the $2,000 to the FBI. This meeting was not consensually recorded due to a technical malfunction.

41. On June 21, 1984, a consensually recorded meeting was held between Lawrence Fiato, Luigi Gelfuso and Albie Nunez at Gelfuso's residence. During the conversation, Gelfuso stated that he knew Ronnie Romanowski

owed Craig Fiato $142,000. Gelfuso asked Fiato if Craig Fiato wanted Gelfuso to collect the money. Fiato told Gelfuso that Craig Fiato did want the money collected but when it was collected they would all "chop" up the money. Fiato explained to Gelfuso and Nunez that his brother originally loaned the money to Romanowski so that Romanowski and Michael Rizzitello could invest in a pinball operation. Gelfuso advised that he was going to insist that Romanowski leave Los Angeles within 30 days.

42. Later on June 21, 1984, Lawrence Fiato again consensually recorded a meeting between himself, Luigi Gelfuso and Albie Nunez at Gelfuso's residence. Fiato advised Gelfuso and Nunez that Craig Fiato would go along with whatever Gelfuso decided regarding Romanowski. Gelfuso told Fiato that he and Nunez would attempt to locate Romanowski and collect whatever they could.

43. On June 22, 1984, Lawrence Fiato

consensually recorded a conversation between himself and Luigi Gelfuso at Gelfuso's residence. Gelfuso and Lawrence Fiato briefly discussed a previous tribute payment of $3,000 to Gelfuso on June 19, 1984. During this meeting, Fiato observed Jimmy Cacci, Rocco Zangari and Stephen Cino meeting with Gelfuso in the living room of his residence. fiato did not participate in a conversation with these individuals.

44. On July 10, 1984, Lawrence Fiato consensually recorded a meeting with Luigi Gelfuso at Gelfuso's residence. Gelfuso instructed Fiato to recontact Art Powell and determine if Powell was making "payments" to John De Mattia. Gelfuso advised Fiato that if Powell was not paying De Mattia that Fiato should arrange for future payments to be made to Fiato. According to Craig Fiato, Art Powell, a Long Beach, California, realtor, had previously paid a $5,000 extortion demand to Gelfuso which was divided among the Los

Angeles La Cosa Nostra family members on March 23, 1984.

45. During the July 10, 1984 meeting between Lawrence Fiato and Luigi Gelfuso, Gelfuso stated "anyway it went alright Albie grabbed him and wacked him four or five times which was deserved 'the fucker'! He supposed to... the money. If there is any money, you know, you guys, you guys are in for sure you know."

46. It is the opinion of Craig and Lawrence Fiato that the statement in paragraph 45 above refers to a July 9, 1984, meeting that Luigi Gelfuso and Albie Nunez had with Jerry "The Nose" Quintana. According to Craig Fiato, Quintana is a Los Angeles bookmaker. Gelfuso and Nunez told Quintana to arrange for Lenny Baden to join them for a meeting. After Baden arrived, Gelfuso threatened him and a $10,000 payment was demanded from him. Gelfuso told Baden that he had until the following Friday to come up with $10,000 or

"be put away". Nunez had also threatened Baden and had hit Baden several times in the head and stomach with a rolled-up newspaper. Craig and Lawrence Fiato, on orders of Gelfuso, had previously approached Baden and Quintana on March 13, 1984. Baden and Quintana had been told at that time that they had to make tribute payments to the Los Angeles La Cosa Nostra family in order to operate a bookmaking operation in Los Angeles.

47. Regarding the dispute the Los Angeles La Cosa Nostra family was having with Robert Zeichick, Luigi Gelfuso on July 10, 1984, stated that the Los Angeles La Cosa Nostra family had made a demand of $100,000 from Zeichick. Gelfuso stated that this money was to be used as a bank for a Los Angeles La Cosa Nostra backed bookmaking operation. Gelfuso stated that proceeds from this operation would be "chopped up" among Los Angeles La Cosa Nostra members and their associates. Gelfuso stated that he expected

Zeichick's response to this demand shortly and if Zeichick did not turn the $100,000 over to the "family" then Craig Fiato could do whatever he wanted with Zeichick.

48. During Lawrence Fiato's meeting with Luigi Gelfuso on July 01, 1984, Fiato advised Gelfuso that tribute payments made to the Los Angeles "family" by a local drug dealer, were being threatened by the dealer's loss of a source of cocaine. Gelfuso advised Fiato that he could supply the drug dealer with a source of cocaine. Fiato stated he would determine from the drug dealer the amount of cocaine needed. Gelfuso said he would arrange a meeting between Fiato and Gelfuso's contact.

49. Concerning Craig Fiato's initiation into the Los Angeles La Cosa Nostra family, Lawrence Fiato on July 10, 1984, told Luigi Gelfuso that Craig Fiato was concerned about the delay of his being made or initiated into the family. Gelfuso reassured Lawrence Fiato

that Craig Fiato would be "made". Concerning this initiation, Gelfuso stated "It's gotta be three in the morning, you known what I mean. I may say to him meet tomorrow morning. I'll pick him up at six o'clock. We may drive half-way to San Diego. You have to find the right spot because that's a dangerous situation. He'll understand that. Explain it to him."

50. On July 17, 1984, Lawrence Fiato advised Special AGent William T. Wiechert and me that on July 13, 1984, Luigi Gelfuso called Fiato at Fiato's residence. Gelfuso advised Fiato that he was at his residence with Mike (Last Name Unknown) who could supply Fiato with cocaine. Gelfuso explained that he had known Mike (Last Name Unknown) for a long time and had previously been supplied with cocaine from Mike (Last Name Unknown). Gelfuso told Fiato that he should purchase cocaine from Mike (Last Name Unknown) and then pass it along to his dealer. Gelfuso explained that

Fiato's dealer or source for distribution of the cocaine should not meet Mike (Last Name Unknown). Gelfuso stated that the price for the cocaine was $17,000 a pound and $32,000 a kilo. Gelfuso then put Mike (Last Name Unknown) on the phone with Fiato.

51. Mike (Last Name Unknown) told Fiato that he was from the Redondo Beach, California, area and that Mike (Last Name Unknown) would arrange for a pick up of the cocaine there. After Fiato told Mike (Last Name Unknown) that he was unfamiliar with Redondo Beach, California, Mike (Last Name Unknown) told Fiato that he either owned or had access to two townhomes in Manhattan Beach, California, where the cocaine transaction would be made. Mike (Last Name Unknown) stated that his price for the cocaine would be $17,000 a pound and $32,000 a kilo. Lawrence Fiato advised that after the phone conversation with Luigi Gelfuso, he went to Gelfuso's residence and observed Gelfuso

speaking to an individual in front of Gelfuso's residence. Fiato described this individual as a while male, approximately 30-37 years old, 6'0", 180 pounds, dirty blond hair, moustache, medium build.

52. On July 18, 1984, Lawrence Fiato advised that he was unfamiliar with Redondo Beach, California, Mike (Last Name Unknown) told Fiato that he either owned or had access to two townhomes in Manhattan Beach, California, where the cocaine transaction would be made. Mike (Last Name Unknown) stated that his price for the cocaine would be $17,000 a pound and $32,000 a kilo. Lawrence Fiato advised that after the phone conversation with Luigi Gelfuso, he went to Gelfuso's residence and observed Gelfuso speaking to an individual in front of Gelfuso's residence. Fiato described this individual as a while male, approximately 30-37 years old, 6'0", 180 pounds, dirty blond hair, moustache, medium build.

52. On July 18, 1984, Lawrence Fiato advised Special Agent William T. Wiechert and me that on July 18, 1984, he was called by Luigi Gelfuso from Gelfuso's residence. Gelfuso told Lawrence Fiato to come to his residence, alone, as soon as possible. Gelfuso advised Fiato that "there was going to be a lot of trouble."

53. On July 18, 1984, Lawrence Fiato went to Luigi Gelfuso's residence. Upon arriving at Gelfuso's residence Fiato met with Gelfuso and Mike (Last Name Unknown). Gelfuso told him that he had just learned of Dominic Brooklier's death and felt that it would cause a lot of "heat" on the family. Because of this potential "heat", Gelfuso advised Fiato to tell Craig Fiato not to come to Gelfuso's residence for awhile. Craig and Lawrence Fiato have advised me that Gelfuso has identified Dominic Brooklier as the Boss of the Los Angeles La Cosa Nostra family.

54. Additionally, on July 18, 1984,

Luigi Gelfuso introduced Lawrence Fiato to Mike (Last Name Unknown) who supplied Fiato with a sample of cocaine. Mike (Last Name Unknown) told Fiato that price of the cocaine was $32,000 a kilo and $17,000 a pound and asked when Fiato would want delivery of the cocaine. Fiato told Mike (Last Name Unknown) that he would recontact Mike (Last Name Unknown) sometime next week. Gelfuso told Fiato to contact Mike (Last Name Unknown) through him and he would make arrangements for Fiato to meet Mike (Last Name Unknown). Fiato advised that no consensual recording of this conversation was made as he was concerned about his security due to the urgency of Gelfuso's telephone call.

55. On July 24, 1984, a consensually recorded meeting was held between Lawrence Fiato, Luigi Gelfuso and Albie Nunez at Gelfuso's residence. Fiato told Gelfuso that he provided his alleged narcotics distributor with the cocaine sample previously given to

him by Mike (Last Name Unknown) on July 18, 1984. Fiato stated that he told his alleged distributor that the price was $20,000 per pound or $35,000 per kilo. Gelfuso stated that this was alright and he would set up the narcotics transaction.

56. On July 25, 1984, Lawrence Fiato consensually recorded a meeting with Luigi Gelfuso at Gelfuso's residence. Gelfuso stated that "the kid" had just been there but that "the price went up". Gelfuso stated the price was $40,000. Gelfuso stated that he expected a call from "the kid" that day or the next.

57. On August 1, 1984, a consensually recorded meeting was held between Craig and Lawrence Fiato and Luigi Gelfuso. Gelfuso asked Craig Fiato if he knew Jack Lo Cicero, an alleged member of the Los Angeles La Cosa Nostra family, and whether he would vouch for fiato in his proposed membership in the Los Angeles family. Craig Fiato told Gelfuso that

he and Lo Cicero had done work together in the past and that Lo Cicero would vouch for him.

58. On August 16, 1984, a consensually recorded meeting was held between Lawrence Fiato, Luigi Gelfuso, Albie Nunez and John Vaccaro at Gelfuso's residence. Fiato reported to the group that he had approached Richard Sitman that day and Sitman had agreed to pay John Vaccaro $1,600. Fiato had previously been ordered by Vaccaro and Gelfuso to attempt to make this collection from Sitman. Fiato was not told the circumstances regarding this debt. Vaccaro told Fiato to recontact Sitman and that Fiato could keep half of any money collected, but that he should give him a "wack".

59. On August 20, 1984, a consensually recorded meeting was held between Lawrence Fiato, Luigi Gelfuso and Albie Nunez at Gelfuso's residence. Gelfuso discussed the price of cocaine with Lawrence Fiato. Gelfuso said "the kid" was at his residence the

previous night and Gelfuso told "the kid" to get the best price he could on cocaine. Gelfuso said he would contact "the kid" that day. Gelfuso instructed Fiato to tell Craig Fiato that "someone was going out of town" and that Craig Fiato should "sit now for a week". Gelfuso stated he would call Lawrence Fiato at his house if he received information.

60. On August 29, 1984, a consensually recorded meeting was held between Lawrence Fiato, Luigi Gelfuso and Luigi Gelfuso's son, Michael Gelfuso, at Luigi Gelfuso's residence. Michael Gelfuso said he could provide Fiato with cocaine at $23,500 per kilo. Fiato obtained a sample of cocaine from Michael Gelfuso during this meeting. Luigi Gelfuso told Fiato he would give his son money for the sample.

61. On September 7, 1984, Craig and Lawrence Fiato consensually recorded a conversation at a Los Angeles restaurant with Luigi Gelfuso, Albie Nunez and Carmen Joseph

Milano (Peter Milano's brother). Craig Fiato expressed to Milano his unhappiness that Jimmy Cacci had taken Robert Zeichick from him. Craig Fiato told Milano that he believed Zeichick was still collecting on loanshark loans. Milano agreed to look into the situation. Milano told Craig Fiato to be sure and tell Gelfuso everything he does. Milano asked Craig Fiato to assist him in creating a situation with an unspecified labor union at the Los Angeles Airport. At that time, Milano was not specific as to what he considered a situation, nor did he identify the union. Gelfuso took Craig Fiato aside and told him that Carmen Milano was over him. Craig Fiato took this to mean that Carmen Milano was the permanent underboss of the Los Angeles La Cosa Nostra family.

62. On September 14, 1984, Los Angeles FBI Special Agent Robert Hamer, acting in an undercover capacity, told me he recorded a conversation with Lawrence Fiato and Michael

Gelfuso. Special Agent Hamer purchased five ounces of cocaine for $9,000 from Michael Gelfuso.

63. During the course of a gambling investigation, on September 20, 1984, Sergeant John P. Motto, Los Angeles Department, Administrative Vice Division, supervised other law enforcement officers conducting a physical surveillance at Tracton's Bar and Restaurant, 16705 Ventura Boulevard, Encino, California. At approximately 1330 hours, Luigi Gelfuso, John DeMattia and Morton Goodman were observed at the restaurant.

64. On September 24, 1984, Sergeant John P. Motto, Los Angeles Police Department, Administrative Vice Division, supervised other law enforcement officers conducting a physical surveillance at Tracton's Bar and Restaurant, 16705 Ventura Boulevard, Encino, California. At approximately 1330 hours, Rocco Zangari was observed exiting the restaurant. Later, Luigi Gelfuso and an unidentified male exited the

restaurant and together drove a vehicle to Gelfuso's residence and entered the residence.

65. On September 24, 1984, Sergeant John P. Motto, Los Angeles Police Department, Administrative Vice Division, supervised other law enforcement officers conducting a physical surveillance at 4733 Haskell Avenue, Encino, California. At approximately 1425 hours a vehicle was observed parked adjacent to that address which bore Ohio license 055YPA. According to the Ohio State Department of Motor Vehicles, this vehicle was registered to Carmen Milano.

66. On September 27, 1984, Sergeant John P. Motto, Los Angeles Police Department, Administrative Vice Division, supervised other law enforcement officers conducting a physical surveillance at the Valley Inn, 4557 Sherman Oaks Avenue, Sherman Oaks, California. At approximately 1215 hours, Luigi Gelfuso and Robert Zeichick exited the restaurant.

67. On October 8, 1984, Lawrence Fiato

consensually monitored a conversation with Michael Gelfuso in Fiato's automobile. Gelfuso told Fiato that his father, Luigi Gelfuso, would be traveling to Miami on October 12, 1984, on unknown business. Fiato purchased one-third of a gram of cocaine for $500.00. The purchase was for a sample to be allegedly delivered to Fiato's drug dealer in anticipation of a future larger purchase.

68. On October 9, 1984, Sergeant John P. Motto, Los Angeles Police Department, Administrative Vice Division, supervised other law enforcement officers conducting a physical surveillance at the residence of Peter Milano, 3355 Allegheny Court, Westlake Village, California. At approximately 1940 hours, Luigi Gelfuso and an individual believed to be Carmen Milano were observed at this address.

69. On October 10, 1984, a consensually recorded meeting was held between Lawrence Fiato, Luigi Gelfuso, and Albie Nunez at Gelfuso's residence. Fiato provided Gelfuso

with $1,000 which was "street tax" or a tribute payment from an alleged drug distributor he controlled.

70. On October 13, 1984, Lawrence Fiato consensually recorded a conversation with Luigi Gelfuso, at Gelfuso's residence. Gelfuso instructed Fiato to contact Al Lazar and demand a "street tax" or tribute payment from him in order for him to conduct a bookmaking operation in the Los Angeles area. During the conversation, Fiato informed Gelfuso that he and Craig Fiato were "going back east to see this guy to grab some money off of him, a big chunk of it." Gelfuso gave his approval of this.

71. On October 15, 1984, a consensually recorded meeting was held between Lawrence and Craig Fiato, Robert Kessler, Al Lazar and Nick Dio. Craig Fiato told Lazar and Dio that the money owed them by Robert Kessler would not be paid. Further, Craig Fiato told them they did not have permission to operate in Los Angeles.

There was no violence and no threats were made.

72. On October 15, 1984, a consensually recorded meeting was held between Craig and Lawrence Fiato, Luigi Gelfuso and Albie Nunez at Gelfuso's residence. Gelfuso warned Craig and Lawrence Fiato that it was feared that Robert Zeichick might cooperate with law enforcement. Again, Gelfuso directed Lawrence Fiato and Nunez to collect on Zeichick's loanshark loans. Gelfuso privately told Craig Fiato that he would be made, or initiated, soon in the Los Angeles La Cosa Nostra family. The initiation had been delayed due to excessive law enforcement "heat". Craig Fiato told Gelfuso of the meeting with Al Lazar and Nick Dio which took place earlier on October 15, 1984.

73. On October 17, 1984, Sergeant John P. Motto, Los Angeles Police Department, Administrative Vice Division, supervised other law enforcement officers conducting a physical

surveillance at peter Milano's residence, 3355 Allegheny Court, Westlake Village, California. Observed at the residence were Peter Milano, Luigi Gelfuso, John Vaccaro and another unidentified individual. All four men drove to 4733 Haskell Avenue, Apartment 19, Encino, California. Gelfuso exited the vehicle and entered his residence alone.

74. On October 22, 1984, Sergeant John P. Motto, Los Angeles Police Department, Administrative Vice Division, supervised other law enforcement officers conducting a physical surveillance at Peter Milano's residence, 3355 Allegheny Court, Westlake Village, California. Peter Milano and Luigi Gelfuso were observed at this address.

75. On October 22, 1984, Sergeant John P. Motto, Los Angeles Police Department, Administrative Vice Division, as the affiant, presented an Affidavit for Search Warrant to a Los Angeles Municipal Court Judge. This resulted in numerous search warrants being

issued for residences of individuals described within this affidavit including Peter Milano, John De Mattia, Stephen Cino, Luigi Gelfuso and Rocco Zangari. Searches resulting from the issuance of warrants produced insufficient evidence to warrant prosecution of these individuals.

76. On october 30, 1984, Lawrence Fiato consensually recorded a conversation with Albie Nunez. Fiato told Nunez that Craig Fiato planned to tell luigi Gelfuso and Carmen Milano that if he is not initiated into the Los Angeles La Cosa Nostra family, he will move back to Boston. Regarding the recent Los Angeles Police Department arrests for gambling violations, Nunez said that Gelfuso and Milano made no money from the gambling operation. Nunez stated that Jimmy Cacci had asked Gelfuso to pressure a bookmaker named Kelly (Last Name Unknown). Nunez described in detail how he collected money for Peter Milano from an individual identified as Harvey "x".

Nunez believed the man to be a cocaine dealer. Nunez stated Peter Milano was very upset with Cacci for causing so many problems in the Los Angeles La Cosa Nostra family due to the Los Angeles Police Department recent arrests involving Cacci's bookmaking operations.

77. On October 31, 1984, Lawrence Fiato consensually recorded a conversation with Albie Nunez in Fiato's automobile. Nunez discussed a personal disagreement between Luigi Gelfuso and Carmen Milano. As a result, the money Nunez collected from Harvey "x", approximately $20,000, caused some confusing orders from Gelfuso and Milano. Nunez stated that normally he would deliver the money to Gelfuso who would then divide the money up. However, Carmen Milano told Nunez to deliver the money directly to him. Ultimately the money was cut up and Nunez received $700. It was unclear what Milano received. Nunez complained that Peter Milano was not running the family effectively. Nunez complained that

Jimmy Cacci and others were ineffective in their efforts to collect from a bookmaker he knew only as Kelly.

78. On November 1, 1984, Lawrence Fiato consensually recorded a conversation with Luigi Gelfuso at Gelfuso's residence. Gelfuso was given a $1,000 tribute payment allegedly from a local drug dealer. Gelfuso wanted Albie Nunez to get $100.

79. Additionally, on November 1, 1984, Luigi Gelfuso discussed betting into local bookmakers and then "stiffing" them if they lost. Apparently John Vaccaro was leading this move. Gelfuso advised Lawrence Fiato that he would tell Fiato within the next day or two if he wanted this done. The two bookmakers names were Steve and Nick.

80. On November 9, 1984, Lawrence Fiato consensually recorded a conversation with Albie Nunez in Fiato's automobile. Nunez advised Fiato that he had recently had a conversation with Luigi Gelfuso. Nunez stated

he had asked Gelfuso if Craig Fiato was "ever going to get straightened out." Lawrence Fiato understood this to mean whether Craig Fiato would be made a Los Angeles La Cosa Nostra family member. Gelfuso told Nunez that he, Carmen Milano, and Stephen Cino were backing Craig Fiato and that Gelfuso was waiting until Jimmy Cacci went to jail so that Cacci would not give a negative vote on Craig Fiato's "making". Nunez stated that Johnny Vaccaro was in town and wanted an individual named Sitman extorted by Craig and Lawrence Fiato.

81. Nunez told Lawrence Fiato that John DeMattia may have been the "snitch" in Peter Milano's recent arrest on bookmaking charges and that he believes someone will propose that DeMattia be killed. Nunez stated that according to Milano, DeMattia was checked out back east and was found to be no good. Because of Cacci's involvement with DeMattia, Milano ordered Cacci out of Los Angeles.

82. On November 14, 1984, a consensually recorded meeting was held between Lawrence Fiato, Robert Kessler and Rick Sitman. Sitman told Fiato that he had an outstanding gambling debt of $1,600 which was owed to Luigi Gelfuso. Sitman agreed to pay "down" on this debt with weekly payments of unspecified amount being made to Lawrence Fiato each Wednesday.

83. On November 14, 1984, a consensually recorded meeting was held between Craig and Lawrence Fiato, John Vaccaro and Luigi Gelfuso at Tony Roma's Restaurant, Los Angeles, California. Craig Fiato asked Gelfuso if Skyball (Frank Scibelli) had contacted him regarding Craig Fiato being initiated into the La Cosa Nostra. Gelfuso stated that he had not heard from Skyball yet. Privately, Gelfuso told Craig Fiato not to be too hasty to take revenge on John DeMattia for saying in public that Fiato was an informant. Gelfuso admitted he should have stopped Rocco

Zangari from ordering Fiato away from Robert Zeichick at the time of the meeting at the Valley Hilton Hotel. Gelfuso told Craig Fiato that he would take care of Fiato being made a member of La Cosa Nostra. Craig Fiato informed Gelfuso and Vaccaro that he has a narcotics distributor in the east who pays Fiato $10,000 per month. Gelfuso told Craig Fiato that Jimmy Cacci and Zangari were ordered out of Los Angeles and back to Palm Springs. Craig Fiato told Gelfuso that Gene Holden, and Irving Miller had backed Cacci's bookmaking operation. Craig Fiato told Gelfuso that when he was in Boston, he met a man named Biaggio, who would be coming out to Los Angeles to collect money from Ronnie Romanowski. Vaccaro asked Craig Fiato to collect money from a man named "Sil". Fiato stated he would take his gold jewelry.

84. On November 20, 1984, Lawrence Fiato and Craig Fiato consensually recorded a conversation with Gene Holden. I have learned

from previous FBI investigations that Gene Holden is a Los Angeles bookmaker and former financial backer of Craig Fiato in his loansharking operations. Holden told Craig and Lawrence Fiato that he was ashamed of not calling Craig and Lawrence Fiato regarding his and Robert Zeichick's recent gambling operation. Holden told Craig and Lawrence Fiato that Rocco Zangari had come to him and told him that he had a piece of him. Holden stated he was afraid of what Zangari would do to him so he went along with Zangari. Holden also discussed a previous loansharking victim. Holden stated that an individual had originally owed Craig Fiato $35,000 but that Holden had bought Craig Fiato out for $25,000.

85. On November 28, 1984, Craig and Lawrence Fiato consensually recorded a conversation with gene Holden. Holden told Craig and Lawrence Fiato that Jimmy Cacci and Rocco Zangari had come in and taken over part of his gambling business. Holden explained

that he had been approached by John DeMattia and had been told that Cacci and Zangari were taking over all Los Angeles bookmakers. Cacci, Zangari and DeMattia put $30,000 into the books. Holden then provided Craig Fiato with $10,000 previously owed him. Holden requested that Craig Fiato not tell anyone that he had given Craig Fiato money because Holden was afraid Zangari and Cacci would demand an equal amount.

86. On December 6, 1984, Lawrence Fiato consensually recorded a conversation with Albie Nunez. Fiato told Nunez to tell Luigi Gelfuso that the Boston guy would be out next week. Nunez stated that he told Jimmy Cacci that Craig Fiato had not physically beat "Jerry the Nose", but that he, Nunez, had done the beating.

87. On December 12, 1984, a consensually recorded meeting was held between Craig Fiato, Vincent De La Montaigne (an FBI Undercover Agent know as such as to Craig and

Lawrence Fiato and hereinafter referred to as Mark Legere), and Luigi Gelfuso at a Los Angeles area restaurant. Lawrence Fiato and Legere initially sat at the bar while Gelfuso met with Craig Fiato. Gelfuso told Fiato that Gene Holden did not put up the money for Cacci's bookmaking, but that a man named Lynn Semancis (phonetic) borrowed $50,000 to finance the book. Fiato told Gelfuso that Legere owed him $25,000. Gelfuso told Fiato that Albie Nunez should handle the collection of Legere the next day. Gelfuso then proposed that he, Craig and Lawrence Fiato, and Legere travel, after the first of the year, to Nevada in order to set up a cocaine deal with Los Angeles La Cosa Nostra family member John Vaccaro and his contact who was described as one who "can move 100 'K's' per week".

88. After Luigi Gelfuso and Craig Fiato had met by themselves for approximately one-half hour, Gelfuso motioned Lawrence Fiato and Mark Legere to join them. Gelfuso, Craig

and Lawrence Fiato and Legere joined in conversation for approximately two hours. Much of the conversation was social, however, Gelfuso pressed Legere on how long he would be in Los Angeles. In connection with this question, Gelfuso said his friend "Johnny" from Las Vegas was coming to Los Angeles.

89. On December 13, 1984, Mark Legere told me that he and Lawrence Fiato met with Albie Nunez concerning the collection of $25,000 owed to Craig Fiato by Legere. Nunez demanded from Legere $5,000 on the fifth of every month and stated there would be no excuse for being late. Legere provided $5,000 to Nunez during this meeting. After inquiry by Legere, Nunez told him that if he had any troubles in Boston that they would be handled by the Los Angeles family through their "friends" on the east coast.

90. On December 13, 1984, a consensually recorded meeting was held between Lawrence Fiato, Luigi Gelfuso and Albie Nunez

at Gelfuso's residence. Gelfuso was provided with the $5,000 turned over earlier that day by Mark Legere. Gelfuso stated that he would keep $2,500 and that Craig and Lawrence Fiato should split the remaining $2,500. Gelfuso stated that he would deliver his share to Pete Milano to be split between himself and Milano. Gelfuso stated that soon Craig Fiato would personally be delivering these collections to Milano. The Fiatos returned the $2,500 to the FBI.

91. On December 19, 1984, Lawrence Fiato consensually recorded a conversation with Albie Nunez. Nunez told Fiato he did not know of Luigi Gelfuso's plan regarding John Vaccaro and Mark Legere but would attempt to learn this from Gelfuso. Concerning the $5,000 "street tax" or tribute payment paid by Legere on December 13, 1984, Nunez stated he received $500 from Gelfuso. Nunez stated that Gelfuso told him that he had split his $2,000 with Peter Milano.

92. On January 8, 1985, Lawrence Fiato, after returning from the Boston area, contacted Luigi Gelfuso and consensually recorded a meeting with himself, Gelfuso and John Vaccaro at Gelfuso's residence. Gelfuso agreed that Fiato should meet Albie Nunez in Boston and arrange a pickup of the second $5,000 tribute payment from Mark Legere. Gelfuso explained that Nunez would be in the New Jersey area and could travel to Boston to aid Fiato in this collection.

93. On January 11, 1985, Lawrence Fiato consensually recorded a conversation between himself, Albie Nunez and Mark Legere. After picking Nunez up at Boston's Logan Airport, Nunez told Fiato and Legere that he had a friend who had a kilogram of cocaine to sell. Nunez characterized this unnamed person as someone who is not supposed to be dealing drugs so that a second unnamed person was holding the narcotics. Nunez offered the kilogram to Legere for $34,000. Legere

expressed a possible interest in the deal, depending upon the quality, conditions of sale, and reliability of the seller. Legere requested a sample before proceeding further with any deal. Nunez stated that he would vouch for the quality of the drugs and the seller. Nunez stated that the deal may take "a couple of weeks."

94. Additionally, on January 11, 1985, Legere made a $5,000 payment to Albie Nunez and Lawrence Fiato. Nunez stated he would take the $5,000 back to Los Angeles, California, to be divided there. Nunez, upon leaving for Newark, New Jersey, said he would talk to his "friend" regarding the proposed narcotics transaction.

95. On January 18, 1985, Lawrence and Craig Fiato consensually recorded a conversation with Albie Nunez at Craig Fiato's residence, 1436 Benedict Canyon Drive, Beverly Hills, California. Nunez stated that the $5,000 previously collected on January 11,

1985, in Boston from Mark Legere had been partially divided between himself, Luigi Gelfuso and Carmen Milano. Gelfuso and Milano divided $1,900 and Nunez received $700. Nunez gave the remaining $2,400 to Lawrence and Craig Fiato. This $2,400 was returned to the FBI.

96. On January 21, 1985, Lawrence Fiato consensually recorded a conversation with Albie Nunez and Luigi Gelfuso at Gelfuso's residence. Gelfuso told Fiato that Jack Lo Cicero was out of jail and Gelfuso would meet with him within a few days and discuss Lo Cicero's relationship with Craig Fiato. Gelfuso also stated that he had a "kid" with cocaine at $33,000 per kilo. Gelfuso told Fiato that the "kid" would front one kilo and Gelfuso wanted Fiato to sell it. Fiato, Gelfuso and Nunez discussed saving the New Jersey source of cocaine for that "other guy back there."

97. It is my opinion and the opinion of

other Special Agents involved in and familiar with this investigation that the "other guy back there", referred to in paragraph 96 above, refers to Mark Legere.

98. On January 30, 1985, I reviewed court authorized pen register tapes on telephone number (818) 906-8145, which, according to information supplied by Pacific Telephone Company, is subscribed by Joseph Nazario, 4733 Haskell Avenue, Apartment 19, Encino, California, for the period May 22, 1984 through June 13, 1984. During this period, four telephone calls were place to telephone number (818) 991-6246. According to Pacific Telephone Company, the telephone number is subscribed to by Rome Vending, Inc., 2500 Townsgate, Westlake Village, California. I have been told by other Special Agents of the FBI, which are involved in and familiar with this investigation, and several officers of local law enforcement agencies, that Rome Vending, Inc., is a vending machine business

operated by Peter Milano.

99. Additionally, during this period, two telephone calls were placed to telephone number (818) 889-3519, which, according to Pacific Telephone Company, is located at 3355 Allegheny Court, Westlake Village, California. I have been told by other Special Agents of the FBI, which are involved in and familiar with this investigation, that 3355 Allegheny Court, Westlake Village, California, is a single family house and the residence of Peter Milano.

100. On January 31, 1985, a consensually recorded meeting was held between Craig and Lawrence Fiato, John Vaccaro and Luigi Gelfuso at Gelfuso's residence. Gelfuso told Craig and Lawrence Fiato that his cocaine connection had not recontacted him and he was not sure if the deal was still possible. However, Gelfuso said that Albie Nunez's Newark cocaine source was willing to sell cocaine to the Boston man. Gelfuso and

Vaccaro discussed extorting a Los Angeles area pornographer who answered to "Tony Ducks" Corello. Gelfuso desired to impress Corello that he could not do business in Los Angeles without permission from the Los Angeles La Cosa Nostra family. Privately, Gelfuso told Craig Fiato that all obstacles to his being initiated as member of the La Cosa Nostra family. Privately, Gelfuso told Craig Fiato that all obstacles to his being initiated as member of the La Cosa Nostra had been overcome. Craig Fiato understood this to mean that Jimmy Cacci no longer opposed his membership. Gelfuso told Craig Fiato that Jack Lo Cicero had decided not to join this meeting as he was in poor health. Gelfuso indicated that Lo Cicero had lost his mental sharpness.

101. On February 1, 1985, Special Agent Richard B. Sadler, Federal Bureau of Investigation, Los Angeles, California, told me that on January 291, 1985, he and another

Special Agent served a subpoena on Luigi Gelfuso at 4733 Haskell Avenue, Encino, California. Present at Gelfuso's residence were Gelfuso and Albie Nunez.

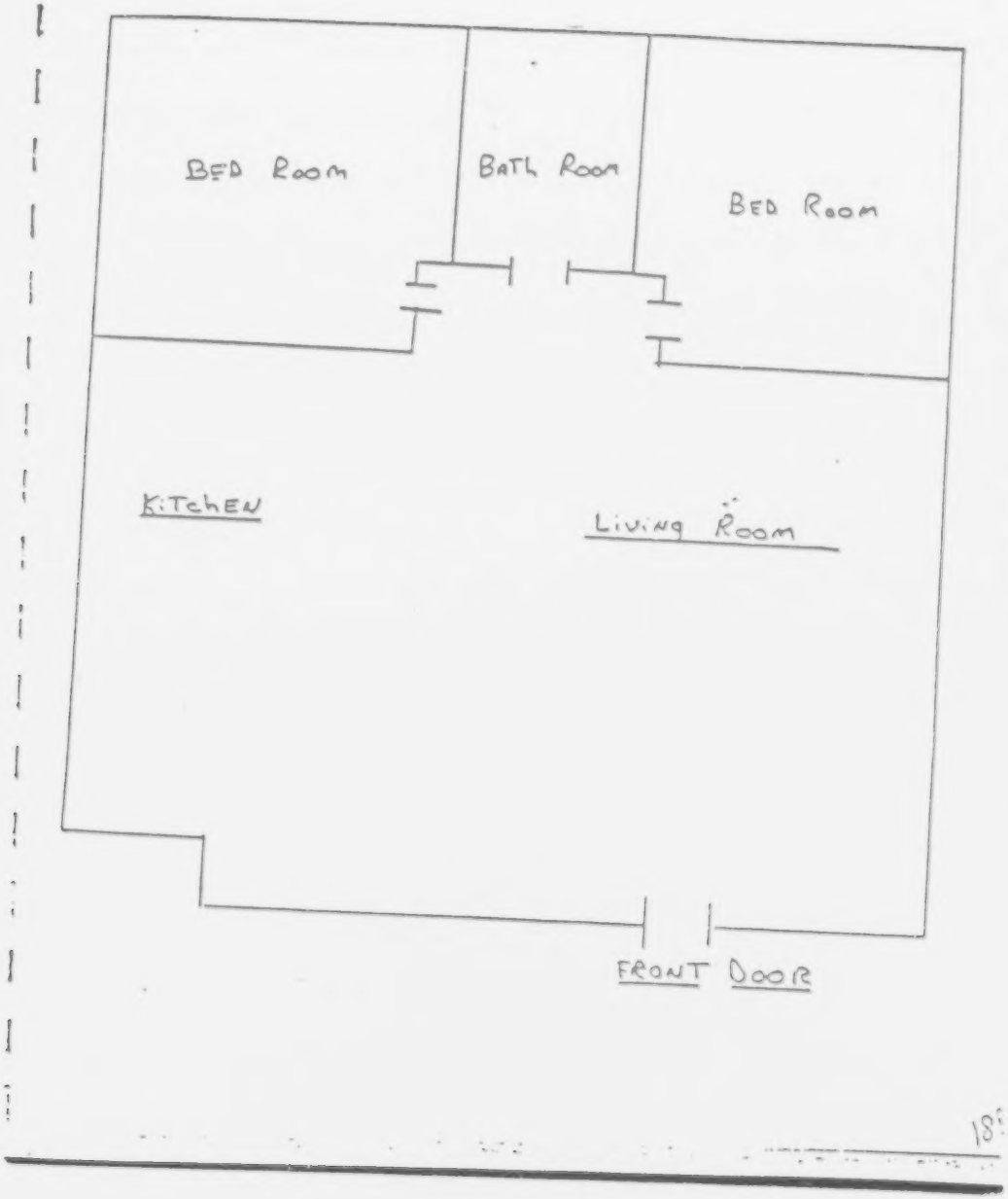
102. On February 2, 1985, a consensually recorded meeting was held between Lawrence Fiato, Luigi Gelfuso and Albie Nunez at Gelfuso's residence. Gelfuso advised Fiato that someone appeared to be "tailing" Nunez from his place of employment. Gelfuso explained it may have to do with a "beef" they were having with a "Guido" or possibly a "cop." Gelfuso told Fiato to follow Nunez home and if it was the guy there were having the "beef" with to stop him and give the person a beating. Gelfuso did not explain the circumstances behind the "beef" they were having with this individual. During this conversation Fiato inquired of Nunez regarding his New Jersey contact for cocaine. Nunez told Fiato that he would know more in approximately one week. Nunez would not

reveal his New Jersey source for narcotics as he was "looking to protect him."

103. It is my opinion, and the opinion of other Special Agents of the FBI involved in and familiar with this investigation that the individual Luigi Gelfuso referred to as "Guido" is a known associate of Gelfuso by the name of Guido Penosi.

104. The following diagram of Luigi Gelfuso's residence, 4733 Haskell Avenue, Apartment 19, Encino, California, is based on observation of Craig and Lawrence Fiato as related to Special Agents of the FBI. The apartment of Luigi Gelfuso is located on the ground floor of a two story stucco apartment building. Additionally, Special Agents of the FBI have observed Gelfuso's residence in the course of serving subpoenas at the residence.

104A. On February 11, 1985, a consensually recorded telephonic conversation was held between Larry Fiato and Albie Nunez. Nunez stated that something would have to be


BED Room
BATH Room
BED Room
KITCHEN
Living Room
FRONT DOOR
18'

done about the problem he was having with Mike Andes.

105. On February 12, 1985, a consensually recorded meeting was held between Craig and Lawrence Fiato and Albie Nunez at Craig Fiato's residence. Nunez again discussed a problem he was having with Mike Andes and other unnamed individuals on the East Coast. During the discussion, the group decided that Nunez would either have to forget about this problem or "wack out" Andes. Nunez stated that he believed that the problem with Andes would not go away and that killing Andes may be the only solution. At the conclusion of this meeting, Craig Fiato advised Nunez that if he decided to opt for killing Andes, to tell Fiato and he would handle it through his people.

106. On February 13, 1985, Special Agents of the FBI conducted a physical surveillance at the Beverly Hills Hotel, Beverly Hills, California. Robert J. Di

Guilio, a known associate of the Buffalo La Cosa Nostra, was observed meeting with Carmen Milano. On the same day, at the Beverly Hills Hotel, Russell J. Masseta, Peter Milano's son-in-law and a known associate of the Cleveland La Cosa Nostra, was observed meeting with Carmen Milano.

107. On February 13, 1985, a consensually recorded meeting was held between Lawrence Fiato, Albie Nunez and Luigi Gelfuso at Tony Roma's Restaurant, Los Angeles, California. During this meeting, Gelfuso stated and Nunez agreed that Mike Gelfuso would have to be "taken care of".

108. On February 19, 1985, a consensually recorded meeting was held between Lawrence Fiato and Albie Nunez in Lawrence Fiato's automobile. During this conversation Nunez gave Fiato two guns to be used in the murder of Mike Andes.

108A. From March of 1984 through March 14, 1985, Craig and Lawrence Fiato have

witnessed and have knowledge of Luigi Gelfuso placing telephone calls from his residence, telephone number (818) 906-8145, to Peter Milano, Carmen Milano, John Vaccaro, Albie Nunez, Stephen Cino, Rocco Zangari, John DeMattia, Michael Gelfuso and Mike (LNU) in which criminal activities were discussed.

108B. From March of 1984 through March 14, 1985, Craig and Lawrence Fiato have witnessed and have knowledge of Carmen Milano, John Vaccaro, Albie Nunez, Stephen Cino, Rocco Zangari, John DeMattia, Michael Gelfuso and Mike (LNU) being at the residence of Luigi Gelfuso, 4733 Haskell Avenue, Apartment Number 19, Encino, California, for the purpose of discussing criminal activities.

108C. On March 18, 1985, Craig Fiato told Special Agent William T. Wiechert who told me that Fiato on that date placed a telephone call to Luigi Gelfuso at telephone number (818) 906-8145. Fiato and Gelfuso discussed the fact there had been no law

enforcement "heat" recently. Fiato stated that he and Gelfuso were referring to law enforcement concerning the murder conspiracy of Mike Andes.

108D. On March 1, 1985, I and Special Agent William T. Wiechert observed a blue Toyota registered to Alfred Nunez parked near Luigi Gelfuso's residence, 4733 Haskell Avenue, Encino, California.

(PAGE 50A OF AGENT MICHAEL F. WACKS'S AFFIDAVIT WAS MISSING FROM THE COPY SUPPLIED BY THE ASSISTANT UNITED STATES ATTORNEY HANDLING THIS CASE. AS SOON AS A COPY CAN BE OBTAINED FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA, THE AFFIDAVIT WILL BE SUPPLEMENTED.)

CRIMINAL HISTORY

109. Peter John Milano was born December 22, 1925. Milano was convicted June 27, 1975, at Los Angeles, for conspiracy to distribute narcotics (heroin) and was sentenced to serve four years. Milano has a

previous conviction for illegal gambling and racketeering on November 21, 1973.

110. Luigi Gelfuso was born August 7, 1925, at Providence, Rhode Island. Gelfuso was convicted July 15, 1969, for narcotics (marijuana) and was sentenced to two to ten years. On November 21, 1973, at Los Angeles, Gelfuso was convicted for illegal gambling and racketeering and was sentenced to four years.

111. John Joseph Vaccaro, Jr., was sentenced November 21, 1973, on charges of illegal gambling and racketeering and was sentenced to four years. On May 8, 1982, at New Jersey, Vaccaro was convicted of conspiracy and sentenced to one year and three months.

112. Stephen Cino was convicted June 21, 1967, at Rochester, New York, for conspiracy and bank robbery and was sentenced to twenty years on December 11, 1967. Cino was released from prison on April 30, 1973.

113. Carmen Joseph Milano was born July

27, 1929. On September 3, 1976, Milano was arrested at Cleveland, Ohio, and charged with fraud and grand theft.

114. Michael Gelfuso was born March 7, 1951. On May 4, 1984, Gelfuso was charged and convicted of a conspiracy in the distribution of narcotics.

PRIOR APPLICATIONS

115. On January 16, 1973, and February 14, 1973, the Honorable Malcolm Lucas, United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 3636, which authorized the interception of wire and oral communication of Peter John Milano and others over telephone numbers (213) 278-6422; (213) 278-6423; (213) 278-6424; (213 278-6425; (213) 272-1163; (213) 272-1164; (213) 272-0177; (213) 272-0178; (213) 278-5141; and (213) 278-5438, at the Offices of People's Industrial Consultant, 9777 Wilshire Boulevard, Suite 600, Beverly Hills,

California, in connection with an investigation into violations of Sections 1954, 1962(c) and 1962(d), of Title 18, United States Code.

116. On December 19, 1977, the Honorable Lawrence T. Lydick, United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 6422, which authorized the interception of wire communication of Michael Anthony Rizzitello and others over telephone numbers (213) 479-2305; (213) 474-0096; (213) 477-3937; (213) 477-3938; (213) 478-6401; and (800) 121-8686, at Marino A. T. Antoci, East coast Lobster and Provisions, Incorporated, 10946 Santa Monica Boulevard, Los Angeles, California, for violations of Sections 1926(c) and 1962(d), of Title 18, United States Code.

117. On April 21, 1982, the Honorable Terry J. Hatter, United States District Judge, Central District of California, Los Angeles,

California, signed Court Order Miscellaneous Number 11437, which authorized the interception of wire communications of Robert George Paduano, also known as Bobby Paduano; Nicholas Nardi, also known as Nick Nardi; Jack Hanna Brownfield, also known as John Brownfield; Michael Anthony Rizzitello, also known as Mike Rizzitello, Mike Rizzi; Lewis Joseph Caveretta, also known as Lew Caveretta; Peter John Milano, also known as Pete Milano; John Badger, also known as John J. Badger; James J. Coppola, also known as Jimmy Coppola; James Joseph Offenberg; Robert Paul Salas, also known as Robert Salas; Jess Patrick Romo, also known as Jess Romo; Dwain Knigge; Louis Cherry; Elroy Giddens; Mike Collela; James Joseph Testa; Rocco DeSantis; Vince (Last Name Unknown); and others yet unknown to and from telephone number (714) 661-5092, subscribed to by Deirdre Paduano, 3827 Via Manzana, San Clemente, California, (213) 998-8923, subscribed to Nick Nardi, 10561 Andora Avenue,

Chatsworth, California, and (213) 654-2901, subscribed to by James Offenberg, 1253 Havenhurst, Apartment Number 133, Los Angeles, California, for a period of thirty (30) days, in connection with an investigation into violations of Sections 371, 892, 1341, 1432, 1961, 1962(c), 1962(d), 1963, 2413 and 2315, Title 18, United States Code, and Sections 841(a), 843(b) and 846, Title 21, United States Code, and Section 77q of Title 15, United States Code.

118. On June 3, 1982, the Honorable Terry J. Hatter, United States District Court Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 11437, which extended authorization of the interception of wire communications of Robert George Paduano, also known as Bobby Paduano; Nicholas Nardi, also known as Nick Nardi; Jack Hanna Brownfield, also known as John Brownfield; Michael Anthony Rizzitello, also known as Mike Rizzitello,

Mike Rizzi; Lewis Joseph Caveretta, also known as Lew Caveretta; Peter John Milano, also known as Pete Milano; John Badger, also known as John J. Badger; James Richard Coppola, also known as Jimmy Coppola; James Joseph Offenberg; Robert Paul Salas, also known as Robot Salas; Jess Patrick Romo, also known as Jess Romo; Dwain Knigge; Louis Cherry; Elroy Giddens; Mike Collela; James Joseph Testa; Rocco DeSantis; Vicki (LNU); Stuart Deutch, also known as Stu Deutch; Lawrence Nissinoff; John Marzullo; Helen Cecille Miller; Deirdre Jo Burton, also known as Dee Burton, Dee Paduano, Deirdre Paduano; Anthony Frank Sisbarro, also known as Tony and others yet unknown to and from telephone numbers (714) 661-5092, subscribed to by Deirdre Paduano, 3817 Via Manzana, San Clemente, California and (213) 998-8923, subscribed to by Nick Nardi, 10561 Andora Avenue, Chatsworth, California, for a period of thirty (30) days in connection with an investigation into violations of

Sections 371, 892, 1341, 1961, 1962(c), 1962(d), 1963, 2314, and 2315 of Title 18, United States Code, and Sections 841(a)(1), 843(b), and 846 of Title 21, United States Code, and Section 77q of Title 15, United States Code.

119. On June 3, 1982, the Honorable Terry J. Hatter, United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 11437, which authorized the interception of wire communications of Robert George Paduano, also known as Bobby Paduano; Michael Anthony Rizzitello, also known as Mike Rizzitello, Mike Rizzi; James Richard Coppola, also known as Jimmy Coppola; James Joseph Offenberg; Robert Paul Salas, also known as Robert Salas; Jess Patrick Romo, also known as Jess Romo; Rocco Richard DeSantis; Peter John Milano, also known as Pete Milano; Helen Cecille Miller; Vicky (Last Name Unknown); Stuart Deutch, also known as Stu Deutch;

Lawrence Nissinoff, also known as Larry Nissinoff, Larry Nelson; Michael Henry Colella, also known as Mike Colella; James Joseph Testa; Jack Hanna Brownfield, also known as John Brownfield; Deirdre Jo Burton, also known as Dee Burton, Dee Paduano, and others as yet unknown to and from telephone (213) 654-1790, subscribed to by Linda Stoppelmoor, 1253 Havenhurst, Apartment 14, Los Angeles, California, for a period of thirty (30) days, in connection with an investigation into violations of Sections 1962(c), 1962(d) and 1963 of Title 18, United States Code and Sections 841(a)(1), 843(b) and 846, Title 21, United States Code.

120. On July 16, 1982, the Honorable Terry J. Hatter, United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 11437, which extended authorization of the interception of wire communications of Robert George Paduano, also known as Bobby

Paduano; Nicholas Nardi, also known as Nick Nardi; Jack Hanna Brownfield, also known as John Brownfield; Michael Anthony Rizzitello, also known as Mike Rizzitello, Mike Rizzi; Lewis Joseph Caveretta, also known as Lew Caveretta, Peter John Milano, also known as Peter Milano; John James Badger, also known as John J. Badger; James Richard Coppola, also known as JImmy Coppola; James Joseph Offenberg; Robert Paul Salas, also known as Robot Salas; Jess Patrick Romo, also known as Jess Romo; Dwain Knigge; Louis Cherry; Elroy Giddens; Mike Colella; James Joseph Testa; Rocco DeSantis; Vicki (LNU); Stuart Deutch, also known as Stu Deutch; Lawrence Nissinoff; John Marzullo; Helen Cecille Miller; Deirdre Jo Burton, also known as Dee Burton, Dee Paduano, Deirdre Paduano; Anthony Frank Sisbarro, also known as Tony; Barbara (Last Name Unknown), also known as Barbara Brooks Camp, Dhiesuwan Pappon, Barbara Dhiesuwan and others yet unknown to and from telephone

numbers (714) 661-5092, subscribed to be Deirdre Paduano, 3817 Via Manzana, San Clemente, California and (213) 998-8923, subscribed to by Nick Nardi, 10561 Andora Avenue, Chatsworth, California and (213) 654-1790, subscribed to by Linda Stoppelmoor, 1253 Havenhurst, Apartment 114, Los Angeles, California, for a period of thirty (30) days in connection with an investigation into violations of Sections 371, 892, 1341, 1961, 1962(c), 1962(d), 1963, 2314 and 2315 of Title 18, United States Code, and Sections 841(a)(1), 843(b) and 846 of Title 21, United States Code.

121. On November 3, 1982, the Honorable Malcolm M. Lucas, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12k092, which authorized the interception of wire communication of Michael Anthony Rizzitello, also known as Mike Rizzitello, Mike Rizzi; William Henry Darnold, also known Bill

Darnold; Louis John Ippolito, also known as Lou Ippolito; Robert George Paduano, also known as Bobby Paduano; Peter Brian Berry, also known as Pete Berry; Peter James Barbello, also known as Pete Barbello; Vinceno Salvador Orazio Culotta, also known as Vince Culotta; Carlos (Last Name Unknown); Robert Louis Zeichick, also known as Bobby Zeichick, "Puggy"; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known Larry Fiato, and others as yet unknown to and from telephone number (213) 929-3226, subscribed to by Alice Darnold, 12732 South Paddison Avenue, Apartment 14, Norwalk, California, (213) 907-6425, subscribed to by Cary Schuman, 14265 Greenleaf, Sherman Oaks, California; (213) 602-2199, subscribed to by Harlan K. Daugherty, 6626 Orizaba, Apartment 1, Long Beach, California, for a period of thirty (30) days, in connection with an investigation into violation of Sections 371, 892, 893, 894, 1961, 1962(c), 1962(d), 1963 of

Title 18, United States Code and Sections 941(a)(1), 843(b), 846 and 952 of Title 21, United States Code.

122. On November 22, 1982, the Honorable Malcolm M. Lucas, United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12151, which authorized the interception of oral communcations of Michael Anthony Rizzitello, also known as Mike Rizzitello, Mike Rizzi; Robert Louis Zeichick, also known as Bobby Zeichick, "Puggy"; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato, and others as yet unknown at the residence of Craig Anthony Fiato, 1115 South Elm Drive, Los Angeles, California, in connection with an investigation into violations of Sections 1963, 1962(a), 1962(b), 1962(c), 1962(d), 892, 893 and 894 of Title 18, United States Code and Sections 841(a)(1) and 846, Title 21,

United States Code.

123. On December 30, 1982, the Honorable Consuelo B. Marshall, United States District Judge, Central District of California, signed Court Order Miscellaneous Number 12270, which authorized the interception of oral communications of Michael Anthony Rizzitello, also known as Mike Rizzitello, Mike Rizzi; Robert Louis Zeichick, also known as Bobby Zeichick, Puggy; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; and others as yet unknown from the apartment of Craig Fiato, 1115 South Elm Drive, Apartment 317, Los Angeles, California, for a period of thirty days in connection with an investigation into violations of Title 18, United States Code, Sections 1963, 1962(a), 1961, 1962(b), 1962(d), 892, 893, 894, and Sections 841(a)(1) and 846 of Title 21, United States Code, and Sections 518, 519, 520 and 524 of the Penal Code of the State of

California and conspiracies to commit such offenses in violation of Sections 182, 184, and 104 of the Penal Code of the State of California.

124. On January 5, 1983, the Honorable Malcolm M. Lucas, United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12092, which authorized the continuing interception of wire communications of William Henry Darnold, also known as Bill Darnold; Louis John Ippolito, also known as Lou Ippolito; Vincenzo Salvador Orazio Culotta, also known as Vince Culotta; Michael Anthony Rizzitello, also known as Mike Rizzitello, Mike Rizzi, Alice Darnold; Bob Carcelia, and others yet unknown to and from telephone number (213) 929-3226, subscribed to by Alice Darnold, 12732 South Paddison Avenue, Apartment 14, Norwalk, California, and to intercept wire communications of Vincenzo Salvador Orazio Culotta, also known as Vince

Culotta; Louis John Ippolito, also known as Lou Ippolito; William Henry Darnold, also known as Bill Darnold; Alice Darnold, and others as yet unknown to and from (213) 519-7189, subscribed to by Judy K. Culotta, 108 Mirabeau Avenue, San Pedro, California, for a period of thirty (30) days, in connection with an investigation into violations of Sections 892, 893, 894, 1961, 1962(c); and 1963 of Title 18, United States Code, and Sections 841(a)(1), 843(b) and 846 of Title 21, United States Code.

125. On February 11, 1983, the Honorable William Matthew Byrne, Jr., United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12092B, which authorized the interception of wire communications of William Henry Darnold, also known as Bill Darnold; Bob Cerelia; Vincenzo Salvador Orazio Culotta, also known as Vince Culotta; Louis John Ippolito, also known as

Lou Ippolito; Alice Darnold; Michael Anthony Rizzitello, also known as Mike Rizzitello and Mike Rizzi; Charles Pribus; Stephen Darnold; and others as yet unknown, to and from telephone number (213) 929-3226, subscribed to by Alice Darnold, 12732 South Paddison Avenue, Apartment 14, Norwalk, California; and Vincenzo Salvador Orazio Culotta, also known as Vince Culotta; Louis John Ippolito, also known as Lou Ippolito; William Henry Darnold, also known as Bill Darnold; Alice Darnold; Lawrence Stephen Miller, also known as Larry Miller; Fabio D'Cristafaro; Arthur Joseph Natoli; E.T.; and others as yet unknown to and from telephone number (213) 519-7189, subscribed to by Judy K. Culotta, 108 Mirabeau Avenue, San Pedro, California, in connection with an investigation into violations of Section 1961, 1962(c), 1962(d) and 1963 of Title 18, United States Code, and Sections 841(a)(1), and 843(b), 846 and 952(a), Title 21, United States Code.

126. On February 11, 1983, the Honorable William Matthew Byrne, Jr., United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12151, which extended the authorization to intercept the oral communications of Michael Anthony Rizzitello, also known as Mike Rizzitello and Mike Rizzi; Robert Louis Zeichick, also known as Bobby Zeichick and Puggy; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; Kathy Villa; and others as yet unknown, from the apartment of Craig Anthony Fiato, 1115 South Elm Drive, Apartment 317, Los Angeles, California, in connection with an investigation into violations of Sections 1963, 1962(a), 1962(b), 1962(c), 1962(d), 892, 893 and 894 of Title 18, United States Code; and Sections 518, 519, 520 and 524 as they relate to Felonies, and Sections 182, 184 and 1104 of the Penal Code of the State of

California; and Sections 841(a)(1) and Title 21, United States Code.

127. On February 11, 1983, the Honorable William Matthew Byrne, Jr., United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12348, which authorized the interception of wire communications of Michael Anthony Rizzitello, also known as Mike Rizzitello and Mike Rizzi; Robert Louis Zeichick, also known as Bobby Zeichick and Puggy; Craig Anthony Fiato, also known as Tony Rome; and others yet unknown, over telephone number (213) 556-8276, subscribed to by Kathy Villa, and located at 1115 South Elm Drive, Apartment 317, Los Angeles, California, in connection with an investigation into violations of Sections 1963, 1962(a), 1962(b), 1962(c), 1962(d), 892, 893 and 894 of Title 18, United States Code; and Sections 518, 519, 520 and 524 as they relate to Felonies, and Sections 182, 184 and

1104 of the Penal Code of the State of California; and Sections 841(a)(1) and Title 21, United States Code.

128. On March 25, 1983, the Honorable Matthew Byrne, Jr., United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12348-A, which extended the authorization to intercept wire communications of Michael Anthony Rizzitello, also known as Mike Rizzitello and Mike Rizzi; Robert Louis Zeichick, also known as Bobby Zeichick and Puggy; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; Steve O.Z. Finkel; Kathy Villa; Bob Kessler; Jack Fine and others as yet unknown, over telephone number (213) 556-8276, subscribed to by Kathy Villa, and located at 1115 South Elm Drive, Apartment 317, Los Angeles, California, in connection with an investigation into violations of Sections 1963, 1962(a), 1962(b), 1962(c) and

1962(d), 371, 892, 893, 894, 2314 and 2315 of Title 18, United States Code; and Sections 518, 519, 520 and 524, as they relate to felonies, and Section 182, 184 and 1104 of the Penal Code of the State of California; and Sections 841(a)(1) and 846 of Title 21, United States Code.

129. On March 25, 1983, the Honorable William Matthew Byrne, Jr., United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12151C, which extended the authorization to intercept oral communications of Michael Anthony Rizzitello, also known as Mike Rizzitello and Mike Rizzi; Robert Louis Zeichick, also known as Bobby Zeichick and Puggy; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; Steve O.Z. Finkel; Joey (Last Name Unknown); Kathy Villa; Robert Kessler; Harold (Last Name Unknown); and others as yet unknown, over telephone number

(213) 556-8276, subscribed to by Kathy Villa, and located at 1115 South Elm Drive, Apartment 317, Los Angeles, California, in connection with an investigation into violations of Sections 1963, 1962(a), 1962(b), 1962(c) and 1962(d), 371, 892, 893, 894, 2314 and 2315 of Title 18, United States Code; and Sections 518, 519, 520 and 524, as they relate to felonies, and Sections 182, 184, and 104 of the Penal Code of the State of California; and Sections 841(a)(1) and 846 of Title 21, United States Code.

130. On June 14, 1983, the Honorable Cynthia Malcolm Hall, United States District Judge, Central District of California, Los Angeles, California, signed Court Order Miscellaneous Number 12833, which extended the authorization to intercept the wire communications of Robert Louis Zeichick, also known as Bobby Zeichick and Puggy; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry

Fiato; Steve O.Z. Finkel; Kathy Villa; Ralph (Last Name Unknown), also known as Ralph the Butcher; Joey (Last Name Unknown-believed to be Mangiapani), and others as yet unknown over telephone number (213) 858-0339; and the oral communications of Robert louis Zeichick, also known as Bobby Zeichick and Puggy; Craig Anthony Fiato, also known as Tony Rome; Lawrence Attilio Fiato, also known as Larry Fiato; Kathy Villas; Joey Mangiapani; Steve (Last Name Unknown); Gary (Last Name Unknown), also known as Carl (Last Name Unknown); and others as yet unknown at the residence of Craig Anthony Fiato, 1436 Benedict Canyon Drive, Beverly Hills, California, in connection with an investigation into violations of Sections 1963, 1962(a), 1962(b), 1962(c) and 1962(d), 371, 892, 893, 894, 2314 and 2315 of Title 18, United States Code; and Sections 518, 519, 520 and 524, as they relate to felonies, and Sections 182, 184, and 1104 of the Penal Code of the State of California;

and Sections 841(a)(1) and 846 of Title 21, United States Code.

131. Other than those set forth above, no applications are known to have been made to any judge for authorization to intercept any wire or oral communications involving any of the persons, facilities, or places specified in this application.

NEED FOR INTERCEPTION

132. The La Cosa Nostra, including the Los Angeles organized crime family, has had a reputation since the 1930's for reprisal against anyone who does not respect their demands or who would testify concerning illegal activity. For example, paragraphs 26, 44, 45, 86, 107 and 108 of this affidavit set forth threats of physical violence, threats of death, statements regarding murder and statements of individuals who have already carried out different forms of violence. These actions on the part of members of the La Cosa Nostra and their associates create the

need for electronic surveillance as a means of detecting criminal acts carried out by these individuals, and protecting and identifying potential victims whose reluctance to testify and fears would probably result in the unwillingness to come forward and provide evidence.

133. As set forth in this affidavit, Craig and Lawrence Fiato have cooperated with the FBI during this investigation. Craig and Lawrence Fiato have consensually recorded meetings with various individuals and are willing to testify to all matters regarding the information they have provided to the FBI. As set forth in this affidavit, while Craig Fiato has been told he will be initiated in the La Cosa Nostra, he has been waiting almost one year for this initiation to take place. At this time, neither Craig nor Lawrence Fiato are members of the La Cosa Nostra. As non-members, Craig and Lawrence Fiato are not among the inner circle of the hierarchy of the

Los Angeles family of La Cosa Nostra. Further, Craig and Lawrence Fiato are not familiar with all of the various aspects of the criminal activities being carried on by the Los Angeles family of the La Cosa Nostra. Craig and Lawrence Fiato are aware, however, that the Los Angeles La Cosa Nostra is involved in various criminal activities to which they are not privy. Consensually recorded conversations of Luigi Gelfuso, John Vaccaro and Carmen Milano, for instance, have provided only circumstantial evidence of the criminal activities and conspiracies involving Peter Milano, Stephen Cino, Rocco Zangari and others known and unknown. Consensually recorded conversations have revealed that Peter and Carmen Milano represent the leadership of a criminal enterprise. Some evidence has been obtained that Peter and Carmen Milano have received a share of illegal proceeds and have directed criminal activities being carried on by the Los Angeles family of

the La Cosa Nostra. However, the evidence received to date of Peter and Carmen Milano's activities is only hearsay. Peter and Carmen Milano shield their activities by limiting their contacts to a very few individuals of the inner circle of the La Cosa Nostra. The investigative techniques employed so far have not succeeded in obtaining sufficient direct evidence of the criminal activities of Peter and Carmen Milano, Stephen Cino, Rocco Zangari and others known and unknown. As an example, in paragraphs 43, 65, and 73 of this affidavit, it is asserted that certain members of the Los Angeles La Cosa Nostra family were meeting outside the presence of Craig and Lawrence Fiato or any other government source.

134. Even with the cooperation of Craig and Lawrence Fiato, consensual recordings cannot always be obtained, which are needed as corroborative evidence. For example, as set forth in paragraph 54 of this affidavit, on July 18, 1984, Lawrence Fiato did not record

the conversation with Luigi Gelfuso because he was concerned about his security.

135. There is one other source, Robert Kessler, who in addition to Craig and Lawrence Fiato, has had meetings with various individuals identified within this affidavit. Kessler is cooperating with the FBI and will testify regarding information he has provided to the FBI. Kessler, who has been an unknown participant in consensually recorded meetings by Craig and Lawrence Fiato, is not aware that Craig and Lawrence Fiato are cooperating with the FBI. Similarly, Craig and Lawrence Fiato are not aware that Kessler is cooperating with the FBI. Kessler, like Craig and Lawrence Fiato, is not a member of the La Cosa Nostra and therefor, is not privy to the activities of the hierarchy of the Los Angeles family of La Cosa Nostra and is not familiar with all of the various aspects of their criminal activities.

136. Although there are additional

sources who have provided certain possibly credible information to the Los Angeles Office of the FBI concerning the Los Angeles family of La Cosa Nostra, there are no such sources who, even should they agree to testify, are in a position to obtain knowledge of or provide testimony concerning the full scope of criminal activities, as set forth in this affidavit, sought by the desired electronic surveillance.

137. None of the victims of the extortion schemes have come forward and offered cooperation or testimony to law enforcement. Considering the continued threats of violence made and directed by Luigi Gelfuso, John Vaccaro, Albie Nunez and others, and in view of the usual reluctance of organized crime victims to cooperate with law enforcement and to testify in such matters, there is no reason to believe that such assistance will be forthcoming. Some of the victims, in addition to the fear of being

harmed, are themselves prior participants or currently involved in illegal activity, and as such, refuse to cooperate with law enforcement to any significant degree. Without benefit of several victims who would be willing to testify, electronic surveillance is necessary to accomplish complete and successful prosecution of all involved participants of the illegal activites.

138. Physical surveillance of the subjects has been conducted on various occasions. This surveillance has been successful in placing various subjects at meetings with each other. However, surveillance rarely succeeds in gathering evidence of the criminal activities under investigation. It is an investigative technique that is used to confirm meetings between alleged violators or conspirators and often leaves the investigators to speculate as to the purpose of a meeting. When used in connection with electronic surveillance,

physical surveillances, will take on a new significance and may constitute useful evidence if it concerned a prior intercepted discussion of criminal activity. For example, if an intercepted conversation concerned an extortion to be accomplished at a later date, a physical surveillance of this meeting then becomes useful in collecting admissible evidence. In addition, when meetings have been observed between subjects they have generally been in private areas where investigators are unable to overhear the conversation.

139. Consideration has been given to interviewing associates and co-conspirators of the principal subjects. However, those individuals who are knowledgeable of the criminal activities are generally participants in the crime and therefore unwilling to cooperate. Even with the cooperation of co-conspirators, there would likely be insufficient evidence to prosecute all

co-conspirators or violators or to develop admissible evidence relating to the full scope and nature of the federal violations and violators set forth in this affidavit. The co-conspirators, in addition to the fear of being harmed or killed, are often themselves prior participants or currently involved in illegal activity, and as such refuse to cooperate with law enforcement to any significant degree. Without benefit of conspirators willing to testify, electronic surveillance is necessary to accomplish successful prosecution.

140. Based upon my experience and the experience of fellow agents of the FBI who have investigated alleged organized criminal activity, I believe that interviews of subjects or victims in this matter would be communicated to Peter and Carmen Milano, Luigi Gelfuso and others who would take even more precautionary steps to avoid the collection of evidence by law enforcement.

141. From prior investigations and reports of other agents of the FBI, I know that the Los Angeles family of La Cosa Nostra, of which Peter Milano, Carmen Milano, Luigi Gelfuso, Stephen Cino, Rocco Zangari and John Vaccaro are members, is extremely sophisticated in detecting and avoid investigations by law enforcement agencies. This has made conventional investigative techniques, such as interviews, physical surveillances and searches pursuant to warrants, virtually useless.

142. Consideration has been given to the utilization of a grand jury investigation in this matter. However, James Henderson, Attorney in Charge, Los Angeles Strike Force on Organized Crime, told me many of the possible witnesses are the conspirators themselves and without some form of leverage being applied, here are not, at this time, sufficient facts to determine which one of the alleged conspirators, if any, should or could

be compelled to testify under a grant of immunity. Attorney Henderson, who has conducted grand jury investigations related to organized crime activities for approximately twelve years, told me that the individuals who are members of and associated with organized crime in Los Angeles, such as those in this investigation, often invoke their Fifth Amendment testimonial privilege and even under a grant of immunity have been known to risk and accept contempt charges rather than testify. Attorney Henderson told me that a grand jury appearance of co-conspirators and victims would unquestionably result in their invoking Fifth Amendment rights and possible risking of contempt charges. Finally, according to Attorney Henderson as well as Agents of the FBI experienced in organized crime matters, at this time, an extensive overt investigation of any type would undoubtedly cause the subjects of this investigation to further camouflage their

activities making ultimate full detection even more difficult.

143. Based on my experience and the experience of other Special Agents of the FBI, it is my belief that the use of search warrants would not provide sufficient evidence necessary to determine the full scope of the criminal activities and the various methods used to carry out the criminal activities. Records concerning contacts between criminal associates are not normally kept and the only evidence of the meetings would be the conversations. To date, no information concerning the location of any records of the criminal activities being investigated has been received and neither Craig and Lawrence Fiato, Robert Kessler or any other source is in a position to gain that knowledge. As set forth in paragraph 75 of this affidavit, on October 22, 1984, the Los Angeles Police Department conducted searches of the residences of, among others, Peter Milano,

Luigi Gelfuso, John Vaccaro and Rocco Zangari. Special AGents of the FBI familiar with this investigation reviewed the materials seized in these searches and found little or nothing which could be utilized in this investigation. In fact, local authorities declined to prosecute these individuals, at least, in part, due to the lack of evidence seized.

144. Based upon my experience and that of other agents of the FBI, I do not believe that any viable undercover operations that attempted to or would penetrate the hierarchy of the Los Angeles La Cosa Nostra would be fully successful if tried at this time. Such individuals isolate themselves from any individuals not known to them and will not deal with anyone not vouched for by someone known to and trusted by them. As set forth in this affidavit, an undercover Agent of the FBI has been successful in making narcotics purchases from an associate of members of the Los Angeles La Cosa Nostra. The undercover

agent has been unsuccessful, to date, in infiltrating the hierarchy of the Los Angeles La Cosa Nostra. Additional undercover operations are going and will be attempted in the future, however, their success is not predictable at this time. Further, in the event future undercover operations might be successful in penetrating the hierarchy of the Los Angeles La Cosa Nostra, these operations would be limited to specific violations and would not produce evidence of the full scope of illegal activities relevant to the violations set forth in this affidavit.

145. Analysis of telephone toll records and pen register records have been considered as investigative tools. However, such records cannot by themselves provide information as to the actual identities of the parties involved in the conversation. Toll records and pen register records analysis also will not reveal the content or purpose of the conversation.

146. The investigative efforts thus far

have not succeeded in fully identifying all subjects of this investigation or the complete scope and nature of the ongoing illicit activities. As an example, as stated in paragraph 106 of this affidavit, two La Cosa Nostra associates have recently appeared in the Los Angeles area. There is no information available at this time, regarding the purpose of their meetings in Los Angeles. It is believed that the coordinated investigative techniques of electronic surveillance, physical surveillance and undercover activities should result in further identifying victims and participants in these illegal activities, thereby making a successful prosecution of the illegal activities set forth in this affidavit both possible and practical as well as enabling the FBI to prevent physical harm and/or death to the victims, both identified and unidentified, of the criminal activities. It is a goal of this interception to obtain sufficient

information to identify the full scope of the criminal activities described herein and the identity of all participants in such activities.

147. As an additional example, paragraphs 105, 107, and 108 of this affidavit set forth information regarding a possible murder of an individual. Consensual records have only implicated Luigi Gelfuso and Albie Nunez in this plot. Electronic surveillance is needed to determine who, if anyone else, is involved in this plot or directing the activities of Gelfuso and Nunez.

148. Due to the fact that sufficient useable evidence is unavailable from other investigative avenues, there is an overwhelming need for electronic surveillance in this matter in order to fully reveal the manner and scope in which Luigi Gelfuso, also known as Louie Gelfuso; Peter John Milano, also known as Pete Milano; Carmen Milano, also known as Carmine Milano; John Joseph Vaccaro,

also known as Johnny Vaccaro; Albert J. Nunez, also known as Albie Nunez or Albie Munoz; Stephen Anthony Cino, also known as Steve Cino; Rocco James Zangari, also known as Rocky Zangari; John Pat DeMattia, Jr., also known as John DeMattia; Michael Gelfuso, also known as Mike Gelfuso; John (Last Name Unknown) and others as yet unknown are involved in the violations of federal statutes.

MINIMIZATION

149. All interceptions will be minimized in accordance with Chapter 119 of Title 18, United States Code. If none of the named interceptees or any of their identified confederates are determined to be participants in the conversations, either through voice identification, physical surveillance or by other means, interception will be suspended immediately, provided the overheard portion of the conversation is not criminal in nature. Even if one or more of the named interceptees or their confederates, when identified, is a

participant in a conversation, monitoring will be suspended if the conversation is not criminal in nature or otherwise related to offenses under investigation.

150. A good faith effort will be made by monitoring agents to minimize any and all privileged communications.

151. The activities to be electronically surveilled are believed to represent continuing criminal conspiracies. It is further believed that the evidence sought will be obtained on a continuing basis for several days succeeding the first receipt of the particular communications that are the object of the request for interception. Therefore, because of the existence of facts and underlying circumstances of the continuing investigation listed above, I submit that probable cause exists for an order from this Court to be issued to intercept wire communications to and from telephone number (818) 906-8145 and oral communications at the

residence located at 4733 Haskell Avenue, Apartment Number 19, Encino, California, which interceptions will immediately terminate upon the determination that the particular conversations do not pertain to the alleged offenses. I request that the order of the Court not require that the interception of wire and oral communications terminate upon the first interception that reveals the manner in which Luigi Gelfuso, also known as Louis Gelfuso; Peter John Milano, also known as Pete Milano; Carmen Milano, also known as Carmine Milano; John Joseph Vaccaro, also known as Johnny Vaccaro; Albert J. Nunez, also known as Albie Nunez or Albie Munoz; Stephen Anthony Cino, also known as Steve Cino; Rocco James Zangari, also known as Rocky Zangari; John Pat DeMattia, Jr., also known as John DeMattia; Michael Gelfuso, also known as Mike Gelfuso; Mike (Last Name Unknown) and others as yet unknown conduct their illegal activities, but continue until such interceptions reveal the

identities of their confederates, their places of operation, and the nature of the conspiracy involved herein, or for a total period of 30 days from the date of the order, whichever is earlier.

152. It is further requested that this Court issue an order pursuant to Section 2518(4)(3) of Title 18, United States Code, directing that the Pacific Telephone Company of California and General Telephone Company of California, communication common carriers defined in Section 2510(10) of Title 18, United States Code, shall furnish the applicant forthwith all information, facilities, and technical assistance which is necessary to accomplish the interceptions unobtrusively and with a minimum of interference with the services that such carriers accord the persons whose communications are to be intercepted, the furnishing of such facilities or technical assistance by the aforementioned telephone

companies to be compensated for by the applicant at the prevailing rates.

153. Based upon the physical characteristics of the premises identified herein as the residence of Luigi Gelfuso, 4733 Haskell Avenue, Encino, California, further described as a two-story brown stucco multi-family residence, located on the north side of Haskell Avenue, it is apparent that the only feasible method of installing oral monitoring devices without comprising this investigation, would be through surreptitious entry. Gelfuso's residence is Apartment 19, located on the first floor of a multi-unit building. Therefor, it is requested that the order authorizing the interception of wire and oral communications specifically authorize the surreptitious entry and/or entries into the described premises by Special Agents of the Federal Bureau of Investigation for the purpose of installing, maintaining, and removing the said electronic devices utilized

pursuant to the authority granted by the court's order, in and from said premises.

154. It is further requested that to avoid prejudice to this criminal investigation, the said communication common carriers, their agents, and employees be ordered not to disclose or cause the disclosure of the order herein applied for or for interceptions which are authorized to any person other than those of its agents and employees who require said information to accomplish the interception of communications hereby ordered. It is requested that, in particular, said

(PAGE 78 OF AGENT MICHAEL F. WACKS'S AFFIDAVIT WAS MISSING FROM THE COPY SUPPLIED BY THE ASSISTANT UNTIED STATES ATTORNEY HANDLING THIS CASE. AS SOON AS A COPY CAN BE OBTAINED FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA, THE AFFIDAVIT WILL BE SUPPLEMENTED.)

that the probable cause allegations stated in

this affidavit have been sustained.

MICHAEL F. WACKS
Special Agent
Federal Bureau of Investigation

SUBSCRIBED AND SWORN to before me this _____ day of March, 1985, at Los Angeles, California.

UNITED STATES DISTRICT JUDGE